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PARLIAMENTARY DEBATES

IN 1610.

EDITED, FROM THE NOTES OF

A MEMBER OF THE HOUSE OF COMMONS,

BY

SAMUEL RAWSON GARDINER,

LATE STUDENT OF CHRISTCHURCH.

PRINTED FOR THE CAMDEN SOCIETY.

M.DCCC.LXII.

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PREFACE.

THE debates during the session of 1610 can not compete in interest with those of such years as 1641 and 1689; but they have nevertheless, a peculiar importance of their own. From them may be dated the commencement of the great struggle between the King and the House of Commons. During the greater part of the first of the two sessions it seemed likely that the two great powers of our constitution might come at least to a temporary agreement. Before the second session was closed it was evident that all such hopes were at an end. The King demanded larger supplies than the Commons were willing to grant. The Commons asked that the exclusive power of taxation should remain in their hands, and that their grievances should be redressed; or, in other words, that whenever a difference arose between them and the Government on any important point, the Government and not the House of Commons should give way.

Our knowledge of the proceedings of these sessions has hitherto been very defective. Of the first session we have the reports in the Journals of the two Houses; but they are very brief, and even more than ordinarily unintelligible. There are also extant some few letters and other documents[a] which throw further light upon the subject. Of the great debate on the Impositions all that was known was a portion of Bacon's speech, printed as the whole, a speech of

[a] I regret that I was not aware till it was too late that there are several papers relating

Hakewill's, and another of Whitelocke's which passed under the name of Yelverton. No doubt these speakers were the ablest who spoke on that occasion; but their speeches are not sufficient to make up for the loss of those of men of less reputation, which have a great historical importance, as showing the tone of thought prevailing, not among statesmen and lawyers, but amongst ordinary men of the world.

Of the later session, again, scarcely anything whatever has been known. On account of the early prorogation the Commons' Journal was either not kept, or not copied out; and its place could not be filled by any materials known to be in existence.

The MS. from which this volume is printed (Add. MS. 4210)

to these sessions in Cott. MS. Tit. F. IV. A reference to the most important of them may not be out of place.

Fol. 255. The message delivered on the 11th of May, commanding the Commons not to debate the King's prerogative of levying Impositions.

Fol. 167. The petition against Recusants, presented May 28.

Fol. 244. A full report of Sir J. Doderidge's speech in the debate on Impositions.

Fol. 242. A speech of Dr. Thomas Crompton, member for the University of Oxford, apparently delivered in the same debate, but not mentioned in the notes now published.

Fol. 112. Notes of the proceedings of the fourth session.

Fol. 159. The message delivered by the Speaker on Nov. 24, adjourning the House.

Fol. 130. Notes of the proceedings of the fifth session. The first notice of any importance is as follows:—

"A Committee appointed to make report to the Howse, by a note to be collected by them, what Bills were dealt in, and did not passe the last Session, and upon their reporte another Committee to consider what Bills to proceed in, and which first and principally, 19 Oct. And upon their report, the Bills ordered to be newe written."

* * * * * * * * *

"The Howse being called, and not above 100 appearing, it was moved it might no where be recorded that there was so great a neglect, and that fynes might be sett, extreated, and levyed. Moved, that the names of the absent might be given to the Kinge, 22 Oct. 1610."

There is nothing important in the remaining notices, excepting a rather fuller account than that in this volume, of the question as to the right of the King to summon members to attend him, without leave previously granted by the House.

A copy is also given of the order mentioned at p. 139.

will make up for many of these deficiencies. It is written in two or three different hands. The notes which it contains were evidently taken by a member of the House of Commons, and were perhaps copied out by himself and other members of his family after the dissolution.

I have made much use of the Harl. MS. 777. It purports to be a copy of so much of the Journal of the House of Commons for the first session as relates to the Great Contract. Whole speeches are, however, inserted from reports at full length, and, even when this is not done, the alteration of a word or two, or the insertion of a sentence, frequently makes good sense of what in the printed Journals is absolute nonsense.

In a note to p. 123, I have referred to the State Trials for the Petition of Grievances. It is there said to be reprinted from Petyt's Jus Parliamentarium. As, however, there is an omission of some paragraphs, the reference should have been to Petyt (1739), p. 318, where the petition will be found entire.

The Appendix is, I fear, somewhat bulky; but I trust that the value of the materials which I have collected may prove my excuse.

I cannot conclude without expressing my warmest thanks to John Bruce, Esq., the Director of the Camden Society, at whose instigation this work was originally undertaken, and whose constant readiness to give me every assistance in his power will never be forgotten by me.

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INTRODUCTION.

When James I. left Scotland to take possession of the English throne, he imagined that he was about to enter into the enjoyment of almost unlimited wealth. He believed that he would be able not only to reward his companions and favourites for whom he had hitherto been able to do so little, but he fancied that he would have little difficulty in relieving his new subjects from their principal burthens, without any perceptible injury to his own resources. He had not been long in England before he had swept away, with scarcely an exception, the monopolies which Elizabeth still retained; he had given up all the recusancy fines, and the greater part of the rents of recusants' lands; and, though he did not persist in his attempt, he had astonished the universities by informing them that he intended to give up the impropriate tithes belonging to the Crown, and recommending them to follow his example.[a]

The real state of the treasury, however, was such as to cause deep anxiety to the Government. With all her parsimony Elizabeth had been unable to raise sufficient money to meet the expenses of the war. During the last five years of her reign she had been forced to sell Crown property to the amount of 372,000*l.*, and had contracted a debt of at least 300,000*l.* It is, of course, impossible to arrive at anything more then a very rough estimate of the sum for which it was possible for James to carry on the government if he had con-

[a] State Paper Office, Dom. ii. 38, 39.

ducted it with the strictest possible economy; but the following is, perhaps, as close an approximation to the truth as it is in our power to make:—[a]

	£
Ireland	50,000
Navy	40,000
Ordnance	8,000
Low Country Garrisons	24,000
Ambassadors	10,000
Wardrobe	10,000
Cofferer of Household	52,000
Treasurer of Chamber	11,000
Privy Purse	1,000
Plate and Jewels	2,700
Secret Service	800
Works	5,200
Posts	3,000
Salaries, Annuities, and Expenses of Home Government	62,000
Queen	7,000
Princes and Princess	4,000
	£290,700

To meet this expenditure James obtained in the first year of his reign, from other than parliamentary sources, 264,000*l.*; but as 17,000*l.* was derived from payments which were not likely to recur, the whole amount of revenue upon which he could depend

[a] The first five items are calculated on the rate of the expenditure of James during the first few years of his reign; the sum set down for Ireland being exclusive of repayment of debt, or of the expenses of the new coinage, which was, in fact, only repayment of debt under another form. The next nine items, being those in which James's extravagance would be chiefly shown, are calculated on the expenditure of Elizabeth. The expenses of the Queen and Royal Family are of course new. I have set them at a far lower amount than they actually reached as soon as the Princes and the Princess began to grow up. The principal sources which I have made use of have been the Issue Books of the Exchequer, and the papers in the State Paper Office; especially Dom. xxxv. 29.

was 247,000*l.*[a] Unless therefore he could, either by constitutional or unconstitutional means, increase his receipts, or, on the other hand, induce the House of Commons to come to the assistance of the Crown with a permanent yearly grant in time of peace, he must lay his account to an annual deficit of 26,700*l.*; and, in order not to exceed that, he must exercise an economy as great as that of his predecessor. What money was still to come in from the subsidies and fifteenths granted to Elizabeth, was at least equalled by the amount of debt which she had bequeathed to him, and for some few years his extraordinary expenses were likely to be very great. The funeral of the Queen, his own entry and coronation, the entertainment of the Spanish ambassadors, and the necessary expenses in the wardrobe consequent upon the change to a male sovereign, would probably amount to about 100,000*l.*, a sum which bore about the same proportion to the revenue of 1603 as a sudden demand for 28,000,000*l.* would bear to the revenue of 1861.

If James had been able to keep within the estimate which has just been given, he might have done well enough. The measures which Dorset took during the remainder of his life were sufficient, and more than sufficient to cover the deficit; and if the debt had not been increased, the parliamentary grant which he obtained in 1606 would have been enough to wipe it all away. In fact, in 1607-8,[b] the last year of his treasurership, the ordinary revenue had risen to 366,000*l.*, a sum which would have fully satisfied the wants of Elizabeth had she still been on the throne in time of peace. The improvement was owing partly to the increase of the land revenue, and partly to the larger revenue derived from the farm of the Great Customs, as well as from a few small licences, and the impositions on

[a] Here and elsewhere in the course of the Introduction, when I speak of the ordinary revenue or expenditure, I mean the amount specified in the Issue Books, after adding 32,000*l.* the average receipts and payments of the Court of Wards and the Duchy of Lancaster; and after deducting the subsidies and fifteenths, and all money received from irregular sources, such as Spanish prize money, sales of lands, &c. and all money paid out in gifts or other grants of an extraordinary nature.

[b] *i.e.* the financial year, beginning on Easter day.

currants and tobacco, which, though they only produced 7,322*l.* together, were destined to lead to a much wider extension of the system.

But all this was of no avail so long as the expenditure advanced with still more rapid strides. In the same year the expenditure, exclusive of the repayment of loans out of borrowed money, was 544,000*l.*, showing a deficit of no less than 178,000*l.*

Nor was Salisbury, on his taking the office of Treasurer, able to restrain the growth of the expenditure: in 1608-9 it amounted to 574,000*l.*, in 1609-10 to 587,000*l.*

In one of the many papers[a] prepared by Salisbury's directions before the meeting of Parliament in 1610, the following estimate is given, showing what he considered to have become the regular and ordinary expenditure at this time.

I have added two columns, by which it may be compared with my estimate for 1603.

	Estimate for 1610.	Excess over Estimate for 1603.	
	£	£	
Ireland	52,584	2,584	
Navy	40,000	. .	
Ordnance	9,200	1,200	
Low Country Garrisons	25,015	1,015	Decrease.
Ambassadors	7,200	. .	£2,800
Wardrobe and Robes	24,616	14,616	
Cofferer of Household	106,323	54,323	
Treasurer of Chamber	21,000	10,000	
Privy Purse	4,000	3,000	
Plate and Jewels	10,000	7,300	
Secret Service	1,700	900	
Works	24,000	18,800	
Posts	3,600	600	
Salaries, Annuities, and Expenses of the Home Government	140,760	78,760	

[a] State Paper Office, Dom. xl. 48. I have condensed the account by throwing several of the items together.

	Estimate for 1610.	Excess over Estimate for 1603.	
Queen	14,000	7,000	
Princes and Princess .	13,050	9,050	
Wine[a]	1,680	1,680	
Wares imported custom free	10,796	10,796	Decrease.
	509,524	221,624	2,800
		2,800	
Total excess . . .		218,284	

Large as this estimate was, the actual expenditure was greater still. In 1608-9 the estimate had been exceeded by 64,771*l.*, and in 1609-10 by 77,896*l.*, making a total of 574,295*l.* and 587,420*l.* respectively. These extraordinary expenses consisted partly in exceptional payments beyond the amount estimated under the different heads of the account, and partly in sums of money granted away to individuals as rewards for services, or in free gift.

In the face of these enormous sums many of the speakers in the House of Commons seemed inclined to lay the blame upon the facility with which James threw money away to his favourites. Of these favourites, it was generally, and with reason, supposed that the Scotchmen got the lion's share. On examination it appears that this was only one among the many causes which destroyed the equilibrium of the finances; and that, if James had been contented to be sparing in other matters, he would not have been ruined by what he gave away. As the case stood, he was giving away what was not his to give. His gifts were only rendered possible by a constant succession of loans. His prodigality was properly regarded as the more culpable from the utter want of merit on the part of most of those who were recipients of his bounty.

The exact sum which the King's Scotch favourites received from the Exchequer is known.[b] From the accession of James to the 29th

[a] This does not represent the whole of the wine consumed, but only certain supplies which were not included in the Cofferer's account.

[b] Add. MSS. 12,497, fol. 155. This does not take into account the value of lands granted.

Nov. 1610, the annuities granted to Scotchmen amounted to 10,614*l.* whilst the money given away to them during the same period reached the sum of 221,380*l.* giving an average of not quite 30,000*l.* per annum. They were, therefore, altogether the gainers, by their master's advance to the throne of England, of about 40,000*l.*

It is not quite so easy to calculate what amount was received by Englishmen in the same way. Very few of them received any of those large gifts or grants of Crown debts, which were generally reserved for the King's countrymen. I have, however, met with a statement that the whole amount of annuities granted to persons of both nations by James previously to the 5th Aug. 1607, amounted to about 30,000*l.*[a] Deducting 10,000*l.* for those held by Scotchmen, there remains 20,000*l.* for Englishmen. It appears, from the entries in the Issue Books, that a great proportion of this amount was paid in sums below 200*l.* a-year, which makes it probable that they were granted to old servants of the Crown, much in the same way as pensions are now given in similar circumstances. It is not unlikely that, under the pressure of the war, many persons deserving pensions were left without any. If, then, 10,000*l.* a-year was spent upon Englishmen without value received, it is full as much as we are at liberty to suppose, making, with the Scotch gifts and annuities, an amount of 50,000*l.* a-year.

There remains to be accounted for an excess of the actual expenditure of 1609-10 over the estimate of 1603 to the amount of at least 246,300*l.* The causes of this excess in the payments are not difficult to trace. That more money should be spent than in the reign of Elizabeth was only what was to be expected. Elizabeth had been her own minister of finance, and had exercised over the Exchequer that strict supervision which alone could keep down the expenditure. It was not the nature of things that her successor should apply himself to business in a similar spirit. With the accession of James the supervision exercised by the sovereign came

[a] Lansd. MSS. 156, fol. 121-123. The sum given is 40,676*l.* 19*s.* 2*d.*, but this includes 10,000*l.* granted to the Queen.

to an end, and the supervision exercised in our own time by the Board of Treasury was not yet in existence. Every minister was inclined to think only of his own department, and to consider it to be the duty of the Lord Treasurer to supply him with means to make good the expenses which he had incurred, and to ask no questions. The Privy Council again could only interfere at a disadvantage. The great increase was in that part of the expenditure in which the King was personally interested, as in the case of the payments made by the Cofferer of the Household, the Treasurer of the Chamber, the Keeper of the Privy Purse, and the Master of the Jewel House.

So it came to pass that the money was in reality frittered away. Services were paid more highly than formerly, and men who had done little or nothing received as much as those who had in former days passed an honourable life in the service of their country. The splendour of the Court was increased, the robes were gayer and more frequently renewed, and the number of attendants swelled in proportion. During the first four years of the reign no less a sum than 92,000*l.* was spent upon jewels alone.[a] One short sentence in an official paper of the time gives a better idea of the spirit in which these expenses were incurred than any which could be derived from whole pages of accounts. Amongst the causes of the increase of expenditure in the wardrobe, the writer notes that the banners of the trumpets are now renewed every year, whereas they had formerly been thought good enough to last for four.

On his accession to office, Salisbury found the debt to amount to something under 1,000,000*l.*[b] In the course of two years he succeeded in reducing it to 300,000*l.* besides filling up the deficits of those years. In order to effect this, besides making use of the parlia-

[a] Add. MS. 12,497, fol. 136.

[b] Account of the King's debts, State Paper Office, Dom. lii. 6. This was the highest point the debt reached in Salisbury's time. I cannot give the exact sum, as the debt is calculated up to Michaelmas in each year. The paper concludes with a statement that, at Michaelmas, 1609, the debt reached 1,465,419*l.*, and these figures were made use of by Salisbury in his financial statement. It only means that the debt would have reached this sum if none had been paid off. The sum given in the text is obtained by making the necessary corrections with the help of the Issue Books.

mentary supplies still unpaid, all possible means of levying money were employed. Payment was required for debts which had been passed over, fines were levied whenever a pretext could be found for levying them, an aid was demanded for knighting Prince Henry, and the officers of the Crown were instructed to exercise the utmost vigilance in pressing all claims which could legally be made. Indeed, when we remember, while all these sums were wrung out of the people, they were actually paying heavier taxes than they had paid to Elizabeth at any time during the war in the year when the Armada was threatening the shores of England, or in the year when Kinsale was occupied by a Spanish force, the conciliatory temper in which the proposals made by Salisbury for fresh taxation were met by the House of Commons was really wonderful.

But the Lord Treasurer knew that it was to no purpose that he had found means of reducing the debt unless he could get rid of the annual deficit. He would gladly have reduced the expenditure of the Court; but five years' experience had taught him that, as long as James lived, all efforts in that direction would be unavailing. He therefore turned his attention to the increase of the revenue. The only possible means of raising money which occurred to him was the extension of the principle which had been adopted by his predecessor in the case of the impositions on currants and tobacco. During the reign of Elizabeth, and part of the reign of Mary, the country had become accustomed to see similar impositions laid upon wines without the consent of Parliament. They were, however, not large, and at the death of Elizabeth brought in less than 13,000*l.* When James came to the throne he found the Venetian and Turkish trade in the hands of the Levant Company, who possessed the monopoly upon payment of 4,000*l.* annually to the Crown. Their trade having been unprosperous, they took advantage of the proclamation against monopolies, and voluntarily surrendered their charter. Upon this, the Government determined to throw the trade open, but to impose generally 5*s.* 6*d.* per cwt. upon currants,[a] an impost which had been paid, before the

[a] State Paper Office, Dom. iv. 46.

constitution of the company, by English vessels to the Venetian republic as an export duty, and by all other vessels to the English Government as an import duty.[a] Before taking this step, they obtained a favourable legal opinion as to the King's right to impose. They were the more strengthened in their determination, as the old Levant Company had been accustomed to exact this very sum from persons who imported currants without being members of the Company; and, in 1600, many such merchants had expressed their willingness to pay a similar impost to the Queen if she would consent to put an end to the monopoly. Apart from the unconstitutional nature of the act, there was nothing in the conduct of the Government calling for reprobation. The arrears of debt owing by the Company to the Crown were forgiven them to the amount of 2,000*l.* In Nov. 1604, it was found that no impositions had yet been paid; and, upon the understanding that there should be no similar failure in future, the merchants' arrears were remitted, at a loss to the Exchequer of 6,000*l.*[b] In 1605 the state of the Turkey trade was again before the Government. The Levant Company, which continued to trade under the new regulations, found itself still burthened with payments for the ambassador at Constantinople, and the consuls in other parts of the Levant, as well as for a customary present to the Sultan. Debts had been incurred, and it was feared that the Turkish authorities would sieze the Company's property in the East.[c] The merchants begged that the Company might be re-established on a new footing. Salisbury immediately took measures to ascertain from Chief Justice Popham[d] whether he should be acting according to the law, as it had been lately said that the establishment of all such companies was illegal. Having received a favourable answer, he obtained from the King letters patent constituting the new Company.[e] It was to be open to all

[a] State Paper Office, Dom. vi. 69; x. 27.

[b] State Paper Office, Dom. Docquets, July 23, and Nov. 10, 1604.

[c] State Paper Office, Dom. xv. 4.

[d] State Paper Office, Dom. xv. 54.

[e] There is a copy of the letters patent, dated Dec. 14, 1605, among the Add. MSS. (No. 20,031).

merchants who chose to subscribe a certain sum. The new imposition had lately been farmed for 5,322*l.*, and, in order that the Company might start fairly, the King ordered this sum to be paid over to them.

Very soon after this arrangement John Bate refused to pay the imposition, and was in consequence committed to the Marshalsea. That we should feel grateful to him for stirring this great constitutional question is natural; but it must be confessed that the members of the Council would have been more than men if they had not resented this proceeding, so soon after having remitted to the merchants, in the course of only two years and a half, no less a sum than 13,322*l.*

The decision of the Court of Exchequer has long been given up as utterly untenable, but it must be remembered that it was received at the time with universal acquiescence.[a] Even the House of Commons acquiesced for the moment in the opinion of the judges.

Towards the end of 1607 [b] Dorset proposed to lay similar impositions on other articles of merchandise, but the rest of the Council refused to agree to his proposition. In the following summer, after O'Dogharty's rebellion had broken out, and a necessity had arisen for additional expenditure in Ireland, Salisbury carried out his predecessor's proposal. At the same time he diminished the duty on currants by 2*s.* per cwt.[c] and largely reduced the imposition on tobacco.[d] The new impositions were estimated at 70,000*l.* By this

[a] One evidence of Coke's assent, given in a similar case, to the doctrine propounded, is not generally known. About 1604 (State Paper Office, Ireland, undated), the city of Dublin sent over to England a collection of grievances. In the answer sent is the following clause: "For the impost of wines His Majestie may impose the same without any statute." This is signed by Popham and Coke.

[b] See Appendix B.

[c] This appears from a note in one of the papers in the State Paper Office, Dom. ccxi. In referring to these abstracts it must be remembered that they do not profess to give the accounts of the Court of Wards and the Duchy of Lancaster, and that in the receipts the assignations are omitted.

[d] I do not know what the exact reduction was, but it must have been considerable, as the farm fell from 2,000*l.* to 400*l.*

means, and by raising other branches of the revenue, he was able at the beginning of 1610 to give the following estimates of the probable receipts from ordinary sources:—[a]

	£	
LAND AND MISCELLANEOUS:—		
Receivers-General	84,000	
Sheriffs	13,800	
Alienations and Hanaper	8,200	
New Year's Gifts	1,100	
Farms and Fee-farms	8,000	
Tenths of Clergy	11,000	
Estalled Debts	12,000	
Seizures	4,000	
First fruits	5,000	
Alehouses	4,000	
Copyholders' fines	2,000	
Fines of leases	2,000	
Post fines	2,272	
Penal Statutes, &c.	4,000	
Exchange of moneys	1,000	
Issues of jurors	1,000	
		163,372
CUSTOMS, IMPOSITIONS SET BEFORE 1608, ALNAGE, LICENCES, &C.:—		
Great Customs	120,000	
Alnage	1,326	
Butlerage	500	
Unwrought cloths	1,000	
Silks	8,977	
Export of coals	6,300	
Cottons and baize	200	
Beer	600	
Alum	5,000	
Logwood	1,700	
White starch	2,833	
Sweet wines	6,000	

[a] State Paper Office, Dom. xl. 48.

CUSTOMS IMPOSITIONS SET BEFORE 1608, &c.:—*continued.*

French and Rhenish wines . .	17,200	
Currants	5,322	
Tobacco	400	
		177,358
New Impositions	70,000	
Recusants	9,000	
Court of Wards	21,000	
Duchy of Lancaster	11,500	
Pre-emption of Tin	8,000	
		£460,230

Still, this revenue fell short of the estimated expenditure by 49,294*l.* and it was probable that it would fall short of the actual expenditure by a far larger sum.

With these prospects it was necessary to call Parliament together. The consequences of this step will be best understood by a study of the reports which occupy the following pages.

THE FOURTH SESSION

OF

THE FIRST PARLIAMENT OF JAMES I.

Sessio Parliamenti incepta 9 *Febr.* 1609[-10].

[Conference with the Lords, Thursday, Feb. 15.]

A conference desyred by the Lords, which was on Thursday after.[a]

At what tyme my Lord Tresurer onely spake, which was on Saturday after[b] reported to the howse by three, viz.

Sr Henry Hobart, Attorney.
Sr Francys Bacon, Solicitor.
Sr Edwyn Sands.

His Lordship did begynne[c] with a benevolent introduction, declaring how necessary it was that bothe howses should meete to consult upon any occasion, saying that bothe of theyme did represent one bodie, and that the one could determyne of nothing without the other, and that if this meanes of imparting theyre myndes one to the other were taken away, the same inconvenience would ensue in this politick body, as dothe in a naturall body when there

[a] The message requesting a conference had been sent down on the 14th on the motion of the Earl of Salisbury, L. J. ii. 550. [b] Feb. 17.

[c] There are notes of this speech in the State Paper Office, James I. Dom. lii. 70, and liii. 57. There is also a full copy at great length in the Harl. MS. 777; and another, very badly made, in the Harl. MS. 2,207. I have seen a third copy in the Advocates' Library at Edinburgh, 31, 7, 2. In these the figures do not always agree with those given in the text.

is an obstruction betweene the brayne and the harte, which is present death, &c.

He sayd, the causes of calling this Parliament were two, viz.—

1. The creation of the Prince, Prynce of Wales, and Earle of Chester and Flint.

2. To demand some supplie of treasure.

He sayd that money was a base creature whearof never any wise man spake without contempt. And that Plato sayd that all our ritches was but *victus et vestitus;* the rest was but *nugatorium quiddam*, a thing to play withall. The philosophers that spake best of it sayd it was but *durior pars terræ*, which is *crassior pars aquæ*. And yet this base creature the King did not demande of us without retribucion of things of farre greater value, which was a generall redresse of all just greevances.

1. Concerning the first he said, there have bene xi Princes of Wales, viz.—

1. Edward sonne of King Hen. 3, who was after called Edward the first, who was created at London, which did so much comfort and joy his father, that Polidor saith of hym in his Latyn, *Pater ejus immortaliter gavisus est.*[a]
2. After hym succeeded Edwardus 2[us], created at Lincolne.
3. Edward the third, created at Yorke.
4. Edward the blacke prynce.
5. Richard the seconde.
6. Henry the fifth,[b] sonne of Henry the 4th.
7. Edward the fifth,[b] sonne of Edward the 4th.

[a] "Pergavisus est immortaliter Henricus pro eo. . . . . Edovardus regis filius ut maturius ad res gerendas graviores experiens redderetur fit Walliæ princeps, simulque Aquitaniæ ac Hyberniæ præfectus."—Pol. Verg. p. 311. Bas. 1555. By Matthew Paris, Edward is called "dominus Walliæ," Mat. Par. p. 1,253, Lond. 1571. Pauli describes Edward's new authority in the following terms: "Sein Vater liesz sich das alte irische Staatssiegel von Dublin zurücksenden, und gab den Befehl, fernerhin nur unter dem seines Sohnes zu verfügen. Eine ähnliche Investitur hatte auch in Wales Statt."—Gesch. von England, iii. 705.

[b] MS. "first."

8. Edward the sonne of Edward the 4th.
9. The sonne of Richard the 3d.
10. Arthur, sonne of Henry 7.
11. Henry his brother, who was after Henry 8.

As for K. Edward the sixt and Queene Mary, they were onely titulary Princes of Wales.

Of theise xi he did observe that eight were created by Parliament, and the other three (viz. Richard 2, and the sonnes of Edward the 4th and Richard the 3d), were created out of Parliament, and that theise three last never prospered.

He did likewise observe a concurrence betweene the realmes of England and France, in that in the xith yeare of his raigne Charles the 5th, then kinge of France, created his sonne the Daulphyne, which titles and dignities were then made hereditary to the eldest sonnes of those kynges and theyre successors.

2. Now, as it is an exceeding greate comforte for us to see a king and a prince live together, so it must needs be a greate perell and danger if either of theyme should want meanes sufficient for theyre maintenance. For the branche cannot prosper and florish except the roote be fedd.

The better to persuade us therefore to supplie theise wants, he sett before us 4 things, viz.:—

1. A representacion of the dangers and inconveniences if the King's wants should not be suplied.
2. An exact and particular declaracion of the King's wants.
3. A preoccupacion of certaine silent objections.
4. Matters of inforcement to excite us to yealde unto the King's desyre.

I. In the number of the first he named breache of treatyes and allyance wth forrayne Princes, which is expected and may happen wee knowe not how soone, either by meanes of want of justice to be done to His Majestie's subjects, or by ambition of forrayners. And thearfore it is necessary that the King have meanes for 4 causes:—

1. To mayntaine his state.

2. To resist his enemies.

3. To help his frends.

4. To make diversions of warre, which is the best pollicy, for, if the late Queene had not given ayde to the lowe contries and the Frenche kinge, what a neighbour might wee have had ere this.

II. Secondly, the King's wants and estate he described in three severall tymes:—

1. At the tyme when he came to the Crowne.

2. From that tyme till Michaelmas was twelvemonth, when his estate was at the lowest ebbe.

3. A progression from that tyme till now.

Queene Elizabeth entered into the Irish warres having 700,000 li. in her coffers.

From the tyme[a] that S[r] Henry Bagnall was slaine at the Blacke Water, untill her death, the charge of Irelande cost sixteene hundred thowsand pownds. In the Earle of Essex tyme, cost 450,000 li. In the late Earle of Deavonshire's tyme, Ireland cost 500,000 li. When the Kinge came to the Crowne he cold not possibly dissolve the army upon a sodaine, soe that the charge of Ireland in his tyme hath cost 600,000.

Besides which, he hath redeemed the lands (cost 63,000 li.), mortgaged by the late Queene; hath taken away the copper money, the exchange of Ireland, and payd divers debts of the Queene's, all amountinge to 300,000 li.

The Lowe Contries hath cost him two hundred and fiftie thowsand pownds.

The obsequies of the Queene The King's enterance The enterance of the Queene and her children The Coronation The entertaynment of the Kinge of Denmarke Embassages and Gratulations sent and received	500,000 li.

[a] Aug. 14, 1598.

In Tercio Jacobi, when the last Lord Treasurer accompted, the grosse debt of the Kinge was 700,000 li.;[a] since w^ch^ tyme his Majestie hath bene at greate charge in the Rebellion of Sir Carey O'doughardy.[b]

In maynteyninge the charge of the Prince, in buildinge of shipps and payinge interest for money borrowed; so that at Michaelmas 1603 he owed in toto . . .	1,400,000
At that tyme alsoe his yearly expences did exceede his receipts[c] . . .	31,000
Since w^ch^ tyme there hath bene an alleviacion of his debt and charge, soe that the King's debt is nowe drawne downe to . .	300,000
And his yearely expences doe nowe exceed his receipts	46,000 per annum.[d]

Towards the discharge of all theise payments, he hath receaved as followeth, (viz.)—

Of the subsidyes due in the Quenes tyme[e] .	300,000 li.
Of the subsidyes last given. . . .	450,000 li.
Of the aide	22,000 li.
Whereof the Nobility payd 4,000 li. and the City of London 1,000 li.	
He hath receaved upon privy seales .	120,000 li.

[a] "Seven hundred and thirty thousand," Harl. MS. 777. In a fragment of a full report of Lord Dorset's speech, delivered in 1606, which precedes the copy of Salisbury's speech in the Advocates' Library, the amount is stated as 735,280*l*. "whereof his owne debte is onlye 335,280 li.; and the other is the late Queene's 400,000 li."

[b] i.e. Sir Cahir O'Dogharty's rebellion in 1608.

[c] Harl. MS. 777 says that the inequality had risen "to one hundred and fortie thousand pounds att Michel. A° 6°." The difference is caused by one report taking account of the extraordinary expenses, which are neglected by the other.

[d] "Though for thextraordinarye there remayneth still lack of provision." Harl. MS. 777.

[e] MS. 30,000.

The most whereof is already repayd.[a]

This debt and charge was thus drawne downe
by meanes of the last subsidy which was . 450,000 li.
Sales of land and mills . . . 400,000 li.
Copyholders, freed woods, and assarts . 100,000 li.
Old debts to the Crowne . . . 200,000 li.

So that the debt remayning is 300,000 li. But the King's certayn charge is 1,400 li. per diem, which is 511,000 li. per ann.

Which declaracion his Lordship having made, he concluded this part of his speache with this question. And will you see the shippe of estate drive so neere the porte, and suffer it to perish, considering that your owne fortunes are imbarcqued thearin?

III.[c] Objections.

1. The president is rare. To which he answered, that in 600 yeares space the kings of this realme never asked helpe in Parliament and were denied it but thrise.

In a° 21 H. 8 the Parliament released to the kinge all his debts, which were of very greate value.

Q. Elizabeth in 44 yeares had 20 subsidies of the laytie and 18[d] of the clergy. The whole in her tyme came to 2,800,000 li., which is almoste three millions.[e]

[a] "Within 5,000 li. and that ready to be repaid as fast as it is called for." Harl. MS. 777.

[b] MS. 20,000. "Well nere the summe of two hundred thousand pounds." Harl. MS. 777.

[c] In MS. 4.

[d] In the Harl. report this figure is 19. In "The Statutes of the Realm" there are only Acts confirming 18 subsidies of the clergy. Both calculations place to the credit of Elizabeth's reign the whole of the subsidies valid in 43 Elizabeth; although part of the money was not payable till after the accession of James.

[e] The other report has 3,519,564*l.* There are reasons for supposing this to be the more correct statement. In a paper in the State Paper Office (James I. Dom. xxxvii. 38) is an account of all the subsidies, tenths and fifteenths paid by the laity from the 13th Elizabeth to Michaelmas, 1608. Supposing that Salisbury included in his figures the whole of the grant of the 43rd Elizabeth, of which there can be little doubt, we find that the amount actually paid on account of grants in Elizabeth's reign after 13 Elizabeth was 2,537,684*l.* To this has to be added the three subsidies and five tenths and fifteenths granted before

2. Objectio: The King is not in warres nor in action.

Solutio:—

The present charge of Ireland is . . 100,000 li.[a]
The chardg of the navie is . . . 40,000 li.
Besides charg of fortresses and castles.

3. Objectio: The Kinge gives much.

Responsio:—

He gives *de proprio*, and bounty is an essentiall vertue of the Kinge.

Q. Mary, a queene full of morall vertues, and of greate devotion in her kynde, departed from the Crowne by way of restitucion 900,000 li. per annum of old rent.

Shee also gave in donatives 750,000 li. per annum of old rent.

Shee retorned to her Clergy in tenths and first-fruits 2,800 li.

Queene Elizabeth held the midle way betwene her father and her sister.

IV. Matters of Inforcements.

1. Doubts and expectacion of breach of Treaties.

2. The competition for the Duchy of Clyve, whearin the Emperour, taking upon hym to be Judge, hathe, without hearing the cause, sent the Bishop to take possession for the howse of Austria. And on the other side the French king and our king joyne to take part with the other, not because of his religion, but for that his right and religion concurre together.

So noble an enterprise as this is not to be deserted, sith, beside charity, we owe unto it a tribute of pollicie.

The third and last part of his speech concerned grace and retri-

13th Elizabeth. In that year the subsidy and its accompanying tenths and fifteenths produced 175,690*l.* Three times this amount is 527,070*l.* which is too much for our purpose by one tenth and fifteenth. Deducting then 30,000*l.* we arrive at 497,070*l.* as the probable sum not accounted for by the paper cited above. Adding this, we obtain a result of 3,034,754*l.* which already exceeds the amount given in the text and which takes no account of the subsidies of the clergy.

[a] The Harl. MS. more correctly gives 100,000*l.* as the average amount of the expenses of Ireland and the Low Countries together.

bucion to proceede from the Kinge, which was a generall redresse of all just grievances; but to this poynte he descended by divers degrees. Wherein he set forth unto us theise 3 things (viz.):—

The duty of the Kinge.
His power and prerogative.
His grace and goodnes.

[i.] Concerninge the first, whereof he said, That Kinges though they weare soe greate ought not to demand contribucons and Subsidies at there pleasures, neither ought subjects to denye theym out of humor, when there is just cause *pro bono publico.*

[ii.] Secondly, concerninge the King's power and prerogative, the true [scale[a]] of the King's prerogative was when yt had concurrancs with the publike good; but in some things his power is inherent and inseparable, wherof he gave 4 instancs:—

1. Imposition upon foraine comodityes with the due regard of the trade of merchandise.[b] But herein it is to be before seen that the shopkeeper doe not raise his wares vi d. for every penny that the Kinge doth impose.

2. Secondly the King's prerogative doth extend to our freeholds, as in Tenures and Wardshipps.

3. He may likewise appoynt at his pleasure the tymes and places of his Courts of Justice.

4. Lastly the execucion of penall lawes doth belonge unto him, which in number and in divers other respects are very burdensom to the subjects, some of them beinge unpossible to be observed.

Some not fit in theise tymes, for lawes are but *leges temporis*; others thoughe fit yet defective for theire direcion, and defective for theire execucion.

Of the burden of penall lawes[c] he gaue one instance: in that at this present divers informacions are preferred into the Exchequer

[a] This word, left blank in the MS., is supplied by C. J. i. 396.

[b] "It is true that the King may impose upon forraigne commodities, yett not soe as to destroye commerce." Harl. MS. 777.

[c] A list of laws fit to be repealed will be found in the State Paper Office, James I. Dom. lii. 72.

against many of the best in London, who lend upon interest, wherein thoe they may expect the King's favor, yet *venia est pœnæ remissio, quæ a sapiente Rege data est, non debetur.*

III. Whereupon he insisted upon the King's grace and goodnes unto his subjects, which was doble, *beatitudo data et nata.* By meanes of the last whereof this blessed and happy union of the kingdomes is nowe made.

He concluded with this, That reasonable demands were not to be answered with cold supplies, for that weare to put the Kinge upon the rocke of necessity, and we know that *durum telum necessitas.*

And so he concluded.

[Debates in the House and in Committee on Salisbury's proposal, Monday, Feb. 19.]

Upon this speeche the matter was debated often in the Howse.[a] Whereupon it was generally conceaved that, for the matter of subsidy, it was a thinge not intended by the Lords, first, for that it would not give satisfaction to His Majestie, for, thoe it might dischardge his debts, yet it would doe no good for the yearly supply of the defect of his receipts, which was 46 thowsand pounds per annum; and also for that a subsidy is never spoken of untill the end of the Parliament, and dothe voluntarily proceed from the Comons, who will not be deprived of the thanks for it by any motion from the Lords.

Neither was it thought yet tyme to enter into consideracion of subsidies, for that the former were not yet payd, and to grante subsidies in reversion was not usuall, nor warranted by any president, especially considering that His Majestie did declare in his proclamacion for the parliament, that he did not call that parliament for

HYDE[b] HOSKYNS.[c]

[a] C. J. i. 396.

[b] The names are placed here in the margin of the MS. On comparing these notes with the C. J., it appears that the earlier paragraph represents Hyde's speech. Hoskyns speech is not noticed there. Nicholas Hyde was member for Christchurch. He became Chief Justice of the King's Bench in 1627. His brother Henry was the father of Lord Clarendon.

[c] John Hoskyns, member for the city of Hereford.

any private benefite to hymselfe, but for the good of the Comonwealth. And that also it was sayd in the last grante of subsidy, that that grante was without president, and should not be drawne into example in after tymes.

Matters for which wee are to contract with the Kinge.

So that, leaving the debate of subsidies, they entred into consideracion of the yearly contribution desired, and of the retribucion to proceed from the Kinge to the subjects, which being referred to the generall Comittee of greavancs, divers meanes of supplie were proposed,[a] whereof the first was—

1. HYDE. The due execution of the lawes against papists and recusants, and the intayling of the lands to the Crowne which should come by attaynder. By the first whearof greate somes of money might speedily be raysed, if the whole might come to the King's hands; and by the other, the state, and yearly charge of His Majesty, might be supplied and mayntayned in greate plenty.[b]

2. FULLER.[c] The second thinge proposed was a resumption of the patents and grants of the King's customes and imposts, which are very proffitable to the fermors; by which meanes His Majestie might receave greater benefite without further hurte unto the subjects, whose good (as he sayd) wee in this Howse ought especially to respect and provide for; for if the kinge be poore and the subjects also, that is *summum malum* bothe to the kinge and the kingdome. But if the subjects have, the kinge cannot want upon any needfull occasion. Whearupon he alledged the King's advise in his booke to his sonne, that he should be carefull not to impoverish his subjects, for that the riches of the subject is the best treasure of the kinge.

3. **As it is in France, &c.** The third thing proposed was the taking away of the purveyance, whearin such course may be taken as the Kinge may be provided for by a markett at the Corte gate, at reasonable prices for ready

[a] Reported Feb. 21, C. J. i. 398.

[b] MS. "plentifully."

[c] Nicholas Fuller, member for the city of London. Many writers have erroneously supposed that he was imprisoned for life by Bancroft. There is an amusing account of his release in a letter in the State Paper Office. (Chamberlain to Carleton, Jan. 5th, 1608. Dom. xxxi. 2.)

money, without troubling the contrye—for which the subjects would yeald to His Majestie a greate yearly allowance.

The dischardge of tenures and wardshipps, whearby the subjects should receave a greate ease and contentment, and our lawes should be more agreable to the lawe of God. And the Kinge also should have in lieu thearof an yearly rent out of the lands held of hym, without charging the poorer sorte who have no lands. 4.

Another motion was made concerning wardships, that the whole benefite might come to the King's purse, and not unto the committee's, but that motion was not seconded by any other. 5. Hoskyns.

Lastly it was sayd that all theise courses would be to no purpose, except it would please the King to resume his pencions granted to cortiers out of the exchecquer, and to diminish his charge and expences. For (sayes he) to what purpose is it for us to drawe a silver streame out of the contry into the royall cesterne, if it shall dayly runne out thence by private cocks? or to what end is it to bring daily sacrifices, if others (like Bell's preists) steale it away in the night? And, for his part, he sayd that he would never give his consent to take money from a poore frize jerkyn to trappe a courtier's horse withall. And therefore he wished that wee might joyne in humble petition to His Majestie that he would diminish his charge, and live of his owne, without exacting of his poore subjects, especially at this tyme when wee have no warres, but gather the fruytes of peace upon the stalks of warre. Or otherwise that some lawe might be made to this purpose which was not strange nor without president of former ages. For in a° 10 Ric. 2, cap. 1, an acte of parliament was made, that because the revenues of the crowne were wasted and exhausted by the excessive guifts of the kinge and misgovernance of his officers, that therefore a Counsell appoynted should consider of the sayd guiffts and grants, and enquire of the king's receipts and expences, to the end the king's state might be mayntained without oppression of his subjects. And the like lawe was made a° 4 H. 4, cap. 4, 6. Mr. Wentworth.[a]

[a] Thomas Wentworth, member for the city of Oxford.

whearby the king promised in parliament to refraine from thensforthe from making such guiffts, and the subjects also were restrayned from demanding theyme. He gave instance also of Canutus, who, to ease his people from oppression, was content to make publicke proclamacion that he would from thensforthe live of his owne demesnes, without exacting anythinge of his subjects. And this is especially observed in every good kinge who respects the good of the people over whome he is sett, his owne honor, and the feare of God. And therefore, said he, it were good that some good course weare taken herein, without which all we can doe is to no purpose, for thoe wee now make supplie, yet there may be the like overeaches hearafter if they be not prevented.

Ezech.

Unto this Sir Julius Cæsar [a] answered, that those lawes of 10 R. 2 and 4 H. 4 were not fitt for theise tymes, for the first was made in the tyme of a dissolute and profuse prince whoe had no respect of his estate and therefore was deprived of his crowne and kingdome; and the other was an usurper, and therefore was willing to give contentment to his subjects with shew of good lawes. And for the other motions of wardships and purveyance, they were very profitable to the kinge, for the wardships were worth to hym yearly 60 thowsand pounds, and the purveyance 40 thowsand pounds; so that, if theise were taken away, the want would be farre greater. Whearupon he entred into a further declaracion of the King's estate, and sayd that the King's present certaine charge was 1,400 li. per diem, and offered to give full satisfaction to any of the Howse that would come unto hym, in any thinge whearin he was willing to be resolved.

But, in conclusion, it was resolved at the Comittee that, for the matters of retribucion, wee should not proceed any further to consult of theyme before wee knewe His Majesties pleasure whether he would be pleased to discharge his tenures, and that wee should consult of that subject; the rather for that that motion was con-

[a] Member for the city of Westminster, and at this time Chancellor of the Exchequer; Master of the Rolls 1614.

ceaved by some to be but as a lure to the subject to drawe hym on to a greater contribucion. It was agreed therefore that a message shold be sent to the Lords to desyre a conference, and that at that meeting wee should desyre to knowe more certaynly what those things were which His Majesty intended to give to his subjects by way of retribucion; and that if the Lords did not make offer of the matter of tenures (which was thought fit to be handled single of itselfe), that then wee should make knowne unto theyme the generall desyre of the Howse concerninge that matter, desyring theyme to make knowne the same to His Majesty, and to knowe his pleasure thearin, whether wee should treate any further of that subject.

[Conference with the Lords, Saturday, Feb. 24. The Commons wish to know explicitly what the king will offer.]

Conference.*

This conference being apoynted, and the first parte of the message being then delivered to the Lords by Sir Julius Cæsar, the Lord Treasurer answered that he did not marvell that his former declaracion was not well understood, considering the length thearof; so that wee might well have sayd *Nego argumentum propter longitudinem*. And yet it was strange and unexpected unto theyme, that, considering His Majesty (who had power to call the parliament and to make knowne to his subjects his purpose of calling it), had accordingly sommoned this parliament, and had made knowne the cause thearof, which was for the supplie of his wants, that this demande of his should be onely answered with a question: "What the King will give to his subjects?" *Quid mihi dabis?*

Whearupon, after some other speeches to that end, he sayd that the demand of the Kinge was a supplie of his wants; wants, sayd he, not of wantones, but such as the honor of the King and the saffety of the kingdome had drawne upon hym; expences of necessity and magnificence. His demand was doble supplie to discharge the

* Reported Feb. 27; C. J. i. 401. See also Harl. MS. 777, fol. 15 b.

King's debts, and support to maintaine his state. For supplie [a] they demanded 600,000 li., whearof 300,000 li. is to pay his debts, and 150,000 li. to furnish the navy, and 150,000 li. to lie in his coffers for warre or any just occasion. States are mayntayned by reputation, and the King lives by his honor.

For yearly supporte they demande 200 thowsand pounds per annum for the mayntenance of the King, the Queene, the Prince, the Duke, and Lady Elizabeth, which would be little enough if any yearly benefite which the crowne now receaveth be taken from it.

To this demand Sr Julius Cæsar sayd that the Lower Howse had entred into consideracion of the King's wants, and of supplie thearof. But for subsidies they did conseave that the Lords did not intend theyme, for that those proceed from the Howse of Commons; and of any yearly contribucion or support they could not determine before they knew the King's pleasure what he were willing to departe withall to the subject.

And to the demands now made he sayd that the demand was transcendent, and that the presidents very rare in that kynde; and therefore he could say nothing unto theyme before he had acquaynted the Howse therewith.

Whearupon, after sylence, Sir Henry Montague [b] entred into the second parte of the message, and sayd that theyre lordships had dealt freely with theyme in that they had spoaken playnly to theyme; and that the *arcana imperii* are knowne to the Lords, but that he was to make knowne to them *vota populi*. That which he was to deliver, he sayd, consisted of a motion and a question. The motion was that the Lords would joyne with theyme in the question to His Majesty: and the question was whether it would please His Majesty that wee might treate concerning the dischardge of tenures.

[a] "Supplie was by way of subsidye."—Harl. MS. 777, fol. 16 a.

[b] Member for the city of London. He was at this time Recorder of the city. He afterwards became Chief Justice of the King's Bench, and subsequently held several important political posts. He died in 1642 as Earl of Manchester.

To this my Lord Treasurer answered that he would give theyme no answer untill he had consulted with the rest of the Lords. But in the meane tyme he sayd that in the King's power there were three sorts of

Retribucions.

1. Matters of soveraignty inherent in hym, as to call parliament, his coyne, proclaime warre.
2. Matters of justice and protection of his subjects, and redresse of all just greevances.
3. Rights—but such as were *onera* to the subjects.

Concerning the first sort, he sayd, the Kinge would never part with theyme for any money.

The second sorte wee should have freely without paying or giving anythinge for theyme—for theise His Majesty had taken an oathe to give freely to his subjects, so that they are already contracted for in heaven.

Of the third sorte he reckoned a greate number which he said the Kinge might haply be perswaded upon good consideracions to yeald to his subjects, viz.—

1. To be bound by the statute of lymitacion of 32 H. 8,[a] as subjects are, and to give away that parte of his prerogative, *Nullum tempus occurrit Regi.* What a jewell were this, sayd he, if the king wold part with it?
2. Right of purveyance, which were a greate ease and contentment to the subject if it were extinguished.
3. The changing of a maxime of the lawe, *Intentio Regis est regula legis:* and that all the king's grants should be taken in a favorable construction to the subject. As if the king grant the manor of Dale, and he have 2 manors there, this now is a voyd grante, &c.[b]

[a] Cap. 2.

[b] Harl. MS. 777, fol. 16 b. "The maxim that the King's graunts shalbee taken strictlye, and preciselye accordinge to the letter, to be changed; and that they bee taken most beneficiallye, accordinge to the true intent, or as neere as may bee."

4. Informers to be taken away (which are all beggers and knaves) and to proceede by way of indictement.[a]

5. Remission of old debts from 1 H. 7 untill 30 Eliz., and since then also upon good consideration.

6. Forfeitures not to be taken by the king for nonpayment of rents reserved.[b]

7. No injunction for possession to be granted upon an information in the Exchecquer, and the generall issue pleaded.[c]

8. The friends of every ward to have the wardship at certaine reasonable rates. And the comittee to receave no more than he payes.

9. Lycence of alienacion to be granted at certaine reasonable rates, viz. 3 yeares rent after the old rent, for xx d. in tymes past was as much as v s. is now.

10. Respecte of homage to be taken in the contry before comissioners, without such charge and troble as now is.

But he sayd, that for the mayne matter of tenures and wardship, the very name of wardship did putt theyme in mynde that they were under tutelage; being but a Comittee, and thearfore (after exchange of voyces one with another) he sayd that they would acquainte the House with our desyre, and thereupon make choyse of a Comittee to attend His Majesty and to know his pleasure; and so wee should receave an answer.

[a] Harl. MS. fol. 17 a. "The King will utterlye take away informers, name and thinge, and deprive himselfe of his revenew upon popular accions, and soe deliver his subjects perpetuallye from the vexacious snare of penall lawes, not onelye lyinge upon them by way of forfeitures already incurred, but for ever heerafter, and give way to Parliament to devise some course (by judgment or otherwise) to keepe in use the discipline of necessarye statuts."

[b] Harl. MS. fol. 16 b. "The King's lessees not to be subject to forfeitures for nonpayment of rents, or other defect and imperfeccion in theire lease."

[c] Harl. MS. fol. 17 a. "The subject upon the information of intrucion shalbee admitted to his generall plea of not guiltie; and not bee forced to pleade speciallye. Neither stand in feare of any injunccion to turne him out of possession, when hee hath continued a certaine time, &c. Which now rests meerelye in the discrecion of the judge."

[On Thursday, March 1, the Commons resolved on a message to the Lords, acquainting them that "for supply" they could "not conceive any other ordinary means than by way of Subsidy," which they would consider in due time. As for support, they waited to hear the answer of the Lords to their request that they should petition the King for leave to treat on Wardships. This message was delivered in a Conference held on the same day, of which only a fragment of a speech of the Earl of Northampton has been preserved in these notes.[a]]

* * * * *

First, in respect of the soule, in his care of religion and of the Church, out of which, as out of the garden of Eden, he had weeded out all schismes, placinge his foundacion *in lapide angulari.*

Alsoe, he noted his bounty to the Church, whereof he gave some instances, as in Poules, Ripon, and in some others. His care of our bodyes he observed in the matter of duale, wherein order is to be taken.

Concerninge the navy, he said, he had built 4 royall shipps, and was carefull to reforme the abuses in the officers, wherein, though he had approved the Lord Admirall's greate integrity, yet he found that much water ran by the mill which the miller knew not of.

He observed his care in repressinge of piracies and depredacions, to which purpose he had lately granted a comission, furnished forth his shipps, and increased his ordinance. Soe that havinge found the State *eneam*, he doubted not but he will leave it *aureum*.

But in his person he observed many excellent vertues, first, in that all his subjects had accesse unto him; 2. he is free from banquetinge and surfeytinge; 3. from the sinne of the fleshe, to which princes are usually most prone; 4. from extorcion and covetousnes; 5, and lastly, that he hath setled a peace with all neighbor princes, soe that he is free from all excepcions that might abate good affection.

[a] I have ventured to transfer to this place, to which it undoubtedly belongs, this fragment, which in the MS. has been copied out by some mistake in the place of the last part of Northampton's speech of March 12.

In the Harl. MS. 777, fol. 21 a, a full report of this speech will be found. There is nothing of any great importance in the part which is missing in the text.

In the second place he spake of that which the Kinge demanded, which was supply and support, which was as proper and fit by the subjects to be given to the prince, as the rivers to give tribute to the sea.

Concerninge the tyme of this demaunde, he saith that yt was a necessary tyme: 1. When his cofers were empty. 2. When he had yeilded an accompt unto us of his receipts and disbursements. 3. When all other Princes weare growne exceedinge rich; and, in particuler, the Kinge of Spaine had receaved a contribucion of many millions.

Besides, he used two other reasons: 1. From the naturall body, which yf yt consume more then yt norishes, *febris hectica* and death ytselfe doth ensue. 2. Th'expectacion of breach of treaties and increase of quarelles with the[a] Pope, against which provisyon of necessity must be made in due tyme, sith they are most safe that are most tymely provident. Lastly he answered two objections whereof the first was that the proporcion nowe demanded was not usuall, nor warranted by presidents. To which he answered that he cold produce divers examples of Princes of this realme whoe have receaved extraordinary supply from their subjects.

K. R. 2 was indebted 2 millions, which was all payd by challesses and crosses; and the like may be said of H. 4 and of E. 4.

The second objection is, that, notwithstanding the supply, the greate charge and expences of the Kinge may still continue, which yf yt shold, the disease may be healed for a tyme, but not cured.

To this he said that the eyes of the world are nowe set upon this State.

And that by our supply to the Kinge they will measure our strength, and therefore yt were rediculous for the mountaigne Caucasus to bring forth a mouse, or when the drum is stroken up to gather cokles.

He said that the Kinge was sensible of that *ne forte non sufficiat*

[a] At the bottom of the page, which in the MS. concludes with these words, is written, "He spake alsoe of the creation of the Prince, whome he called a child of the Muses, and a disciple of Mars."

nobis et vobis, that His Majesty's ends are already served, though other men's humors not satisfied, and therefore he wold *dediscere* what his nature had taught him. He said that his object was the content of his people, and his study the preservacion of his State; and, lastly, that he had nowe served, as Jacob did, seven years together for Rachel his love. He had kept his flock together in safety, he had increased theyme, he had devided them, and he had wrestled for our sakes and shrunk a sinue; and therefore we had no reason with Laban to detayne from him the just reward of his labors.

[Already, in consequence of the request of the Commons made on the 24th, the Lords had on the 26th named a Committee for the purpose of laying before the King the desire of the Commons to obtain leave to treat for Wardships and Tenures. On the 28th they reported the King's answer, "That His Highness reserveth to himself (tanquam re integrâ) the power affirmative or negative to grant the petition made by the Lower House, or not to grant it, as upon further deliberation he shall see cause." Accordingly, on Friday, March 2, a message was sent to the Commons to request a Conference in order to make known to them the King's reply. A Conference had already been fixed for that afternoon, in order to receive the complaints of the Commons against Dr. Cowell's book, called "The Interpreter." As soon as this matter was disposed of, they were to proceed immediately to the question of Tenures.]

On Friday, being 2° Martii,[a] another Conference was apoynted, upon the motion of the Comon howse, concerning Dr. Cowell's booke contayning scandalous and dangerous matter against the authority of the Parliament, which see in the titles of Subsidy,[b] Parliament, and Prerogative, in that booke of his called the Interpreter.

That the King might make lawes of hymself, and demand subsidies *de jure* without consent of Parliament.

On , being the [c] daie of March, another Conference was apoynted with the Lords. At what tyme the Lord Treasurer

[a] Reported March 3. C. J. i. 405.

[b] The title "King" is here omitted.

[c] These blanks are left in the MS. When the note-taker came to copy out his notes, he probably found that there was no date affixed to those of this Conference, and, forgetting that it had succeeded immediately to that on Dr. Cowell's book, he supposed that it had taken place on another day.

deliverid unto the Lower Howse the King's answer to the motion concerning Tenures, whearin he sayd he was to proceed with great caution and warynes, and to cutt betwene wynde and water, neither to blowe us up with hope, nor drowne us in despayre, and that all speeches doe lose theyre grace *in transitu*, as water passing from a pure fountayne throughe other conduits and veynes in the earth dothe lose his first taste.

Of His Majesties Answer there were 5 branches:—

1. The some of his answer, which was suspension of answer for a tyme. 2. The grounds and reasons of this answer. 3. A promise of a direct answer within a tyme prefixed. 4. A liberty granted to treate of other things. 5. A rule of valuacion proposed how wee are to esteeme the King's interest if wee fall to bargaine.

Before he entred into theise particularities he sayd that his Majesty made a gracious acceptacion of the Lords' proceedings in that buisines in that they had not opened and discovered theyre owne opinions and affections before they had consulted with hym. And for the motion of the Howse (he sayd) he found no cause to make any ill construction of it, being proposed in humble and modest manner. For in theise things he did onely wish that a due order might be observed: for he did not *privare motum*, but onely *imponere formam*.

1. The substance of his answer to our motion was, that he would take a tyme of deliberacion before he would answer.

2. The reasons and grounds hearof were for that upon this matter of Tenures did depend consideracions of

Honor,
Conscience,
Utility.

i. In the poynte of honor he appealed to the Howse, whearin if every one in particuler were carefull to mayntayne his honor and reputacion, and all in generall to preserve the honor and priviledgs of the Howse, much more carefull ought the King to be to mayntayne his honor, which is more then precious, being above all price,

for *honor non compensatur lucro*. In this he was [to] forgoe the tutelage of the nobility and gentry of the realme, which he called an arme of his prerogative, and such a prerogative as none that was not weary of the name of a subject could call a greevance, and therefore he had greate cause to suspend his resolucion for a tyme.

ii. It concerns hym in conscience; for, sayd he, shall I abandon that regall protection which I have over the progenity of the noblesse of the land, and expose [them] to the weakenes of a comon and vulgar protection? This, sayd he, was of force enough of it selfe to perswade his Majesty not sodainly to resolve. And to make hym to be carefull to yeald to what wee desyre in that maner, that, if ever wee have, wee shall not repent it.

iii. The poynte of utility, as (sayd my Lord) it was the last in the King's contemplacion, so it is the last in my computacion. And of this his Majesty (but for the former respects) would easily yeald to make his subjects partakers of.

[3].[a] But thoe he tooke a tyme of deliberacion, yet he sayd his tyme should be lymited, for before the recesse from parliament he would give us a resolute answer.

[4.] Likewise in the meane tyme he gives us full liberty to treate of those things which my Lord Treasurer had formerly proposed unto us; which his Lordship wisht that wee should not disvalue because they were offred unto us, but rather highely to value theyme because they were never offred before by any King of this realme unto his subjects. Saying unto us that this was [His] Majesties speciall pleasure and desyre, to plant and to make perpetuities of all such things as may tend to the good and ease of his subjects in his owne tyme. Thoe he had no distrust in those which should succeed hym.

[5]. In the [5th] place he proposed unto us a meatewand measure, or rule of valuacion taken from the two verbs *esse et posse*. For, sayd he, if wee compound with the Kinge, wee must not onely consider what the present proffitt is of the wardships and of fynes for

[a] In MS. "2." The two following figures are also wrongly written.

alienacions, but what may be made of theyme. And (sayd he) let your resolutions sorte with theise consideracions, and then you need not despayre but you may obtaine your desyres; and then you may retorne into your contreys, and tell your neighbors that you have made a pretye hedge about theyme. But he wished that if this suspension were a *supersedeas* to the rest they might heare from us; assuring us that as in theyme and us there was an union of interests, so that union did begett in theyme an union of ends and an union of objects. But as in the buylding of Salomon's [temple] there was no noyse hard of axe or hammer, so he desyred wee would in that maner procede in our consultacions, and then wee assure ourselves that there is in [it] *aliquid divini*, for *Deus omnia suaviter disponit*. (And so he concluded.)

[The proceedings in this Conference being reported to the House of Commons on Monday, March 5, a debate ensued, the result of which was that on the following day a message was sent up requesting the Lords to meet them in another Conference. The Lords appointed Thursday, March 8. Before proceeding to the question of Tenures, Salisbury was to deliver a message from the King concerning Cowell's book.]

Upon the [8th] day of March[a] another Conference was apoynted betweene both Howses; at what tyme the Lord Tresurer delivered a message from the Kinge concerninge the Booke of Doctor Cowell. And the Howse afterwards made a mocion to the Lords by Sir Francis Bacon, Solicitor, concerninge the matter of Tenures.

The Lord Treasurer began his speech with an acknowledgment of his owne wants, which, said he, though all of you doe finde in my longe and often speeches, yet none of you finde them as I feele them. At this tyme, said he, I am to walk in a dangerous path, for I am to speake of speciall things concerninge which I may easily speake amisse:—

Of Kinges,
Of Lawes, and
Of Prerogative.

[a] Reported March 10. C. J. i. 408.

1. Kinges in Scripture they be called *Dei*, and by Plutarch *Dei simulacra.*

2. Lawes when they weare first given, the earth did tremble, and when they are undermined the monarchie will shake.

3. Prerogative of Princes is a thinge which will admitt noe disputacion. For, as Kings are God's Images, soe he that wrestles with them may retorne home lame with Jacob; and he that is to[o] busy with theym may burne himselfe like the Satere, that seekinge to kisse the fire did singe his lippes.

I am, therefore, in speakinge of theise things as yf I sayled betweene desperate rocks. But I will deliver the message wherewith I am sent *secundum literam*, which is that His Majestie hath taken into his consideracion the booke written by Doctor Cowell, called The Interpreter, and hath examyned the partie, and he doth conceave and acknowledge that that booke is to[o] bold with the Comon lawe of the Land; holdinge yt a greate presumcion in any subject to speake or write against those Lawes under which he must live.

Secondly, he did observe his ignorance in that he utterly mistooke the fundamentall and originall grounds and constitucions of the Parliament.

Thirdly, in the poynt of prerogative and other things of like nature he hath waded further then was fyt for a subject, soe that though some offences may be offences to the lower howse of Parliament and not to the other, some may be offences to the body of the Parliament and not to the Kinge, some to the Kinge and not to the Parliament; yet this man in theise things hath offended both against the Kinge and Parliament in regard of that union of interest which all of theym have in the lawes of the Kingdome, without which as the Prerogative cannot subsist, soe without that the Lawe cannot be maynteyned.

If this booke had bene knowne unto His Majesty before the Parliament had begun, he wold have taken order for the suppressinge the publishinge of the like, which nowe he is resolved to doe by a

publicke acte, whereby he will make knowne to all his people what greate dislike he doth conceave, not only of this booke, but of all others of like nature. Comparinge the writers unto those people called Homeromastiges, whoe observed every blemishe in Homer's verses. Soe yf there be any thinge awry in the lawe (as there is something in all humane lawes), that they note and observe, but what is good they conceale. He wished therefore that there may be noe wrytinge or speakinge against either lawes, whereby wee doe nothinge but disturbe our owne peace, the rather for that books are but *voces temporis*, and therefore pity yt were that we should leave such a voyce to sound in the eares of our posterity.

His Majestie said further That for his Kingdome he was beholden to noe elective power, neither doth he depend upon any popular aplause; and yet he doth acknowledge that, though he did derive his tytle from the loynes of his ancestors, yet the lawe did set the Crowne upon his head, and he is a Kinge by the comon lawe of the land. Which as yt is most proper and naturall for this nacion, soe yt is the most equall and just lawe in any kingdome in the world. He said further that yt was dangerous to submit the power of a kinge to definition. But withall he did acknowledge that he had noe power to make lawes of himselfe, or to exact any subsidies *de jure* without the consent of his 3 Estates; and therefore he was soe farre from approvinge the opinyon as he did hate those that beleved yt; and lastly he said that there was such a marriage and unyon betweene the prerogative and the lawe as they cannot possibly be severed. Soe that he may say with David, *posuit in judicio thronum suum*,[a] &c. And soe he concluded the substance of his speech with a repeticion of certaine words not longe before used by His Majestie upon reporte of certaine speeches in Parliament, wherewith he was discontented. Sayinge that, yf they had denyed him Subsidies or any other matter of proffit which rested in theire owne power and freewill to give him, yt wold nevir have angred him. Whereby (said my Lord) as

[a] MS. "thronam suam."

yt may appeare unto us that we have a man to our Kinge (and happy are we that our Kinge is a man), so his justice and integrity is apparent to all.

After this speech ended, Sir Francis Bacon[a] begun lettinge the Lords understand that he had a message to deliver unto them from the knights, cittizens, and burgesses of the howse of Comons, which, saies he, I will deliver very faithfully and playnely without any affective curiosity; for ornaments of speech, they are but *bona peritura*, and speech of highe sentance I cannot attaine unto. The matter of his speech, he said, shold consist of an excuse, and a peticion. The excuse was on the behalf of those that sent him, in that they had formerly made mocion to His Majestie concerninge the discharge of Tenures, conceving that yt had not concerned his Majestie in matter of proffitt, honor, and conscience, soe farre as they understoode his Highnes did apprehend yt by the relacion of that noble Lord whoe had formerly delivered unto us his Highnes' answere, thereby he lively representinge unto us *imaginem Cæsaris*.[b]

Concerning the poynt of utility, he said that, as the Kinge did set yt aside in his answere, soe we in our proposicion; sith therein we never intended any deminucion of his estate. For though this goodly tree of Tenures be planted by the comen lawe of the land, and that it be hedged and fenced in by divers statuts and acts of Parliament, soe that yt nowe beares plentifully fruite, yet yf upon the stem or stocke of this tree beinge cut downe, may be raised up a perpetuall piller of support to the crowne, then wee hope that we have proposed to his Majestie noe matter of disservice. Concerninge the poynt of honor, we have learned civilians in our howse whoe can tell us, that that porcion of the civill lawe which is intyteled *De*

[a] At this time Member for Ipswich.

[b] MS. "sesseris." This looks as if the copy of the notes of this day's conference had been made from dictation, by a person who did not understand Latin. It may be remarked that the Latin quotations are full of blunders in the report of the proceedings of this day and of the 1st March. These reports are in a different hand from the rest of the MS. though there are a few corrections by the writer of the greater part of the book.

feudis are but additionalls to the first institucions, soe that of themselves they are not imperiall.

Wee are alsoe taught by the comen lawe that this matter of Wardshippe is not an incident inseperable to the Crowne, sith it is communicable to the subjects whoe have the wardshipe of there tenants, as well as the Kinge hath of his. The Marshalies and those that have served in the warres, they can tell us that they have often served theire Prince without respect of theire tenures, and the Deputies, Lieuetennants and justices of peace of every shire, they can assure us that upon occasion of musters, or when any forces have bene raised for the service of the Prince, all held themselves bound to serve as subjects, and noe man ever made question whose tennant he was, nor howe he held his land. Soe that yt is apparante that this matter of tenures is noe ligament of government, it is neither spurre of honor nor bridle of obedience.

Concerninge the poynt of conscience, howsoever his Majestie by the discharge of tenures shall foregoe the protexion of his wards, yet he shall transferre them unto the care of those who, as they are bound by lawe, soe by nature are bound to provide for theire good. The lawe of the land saith, *Naturæ vis maxima et suus cuique discretus sanguis*, and therefore yt preferres a naturall proteccion before a civill proteccion. As yf land held of the Kinge should descend to an infante from his mother, the father of this infant and not the Kinge shall have the wardshippe. And as the Comen lawe doth preferre the father, soe the Morall saieth, *Honora patrem et matrem;* and though the next of kin to the infant should be negligent in the performance of the dutyes, yet other meanes may be used for the preventinge of wrongs to be offered unto theym. For there was a Pretorian power apoynted by the Romaines for the proteccion of pupils longe before there weare any tenures, and we see in London that there is a Court of orphants, soe that what shall be wantinge for the good of orphants, yf tenures weare discharged, by other meanes may easily be supplyed. And, therefore, as we are excusable in proposinge theise things unto his Majestie, soe hee desired

theire Lordships to joyne with us in peticion to his Highnes that in his Majesty's due tyme, and when he shall thinke fit, wee may obtaine at his hands an axalleracion [a] of his gratious aunswere. The rather for yt is a worke of greate importance and will require longe deliberacion. Though Salomon's Temple was made without noyse, yet yt was not built in one day.

[On March 11, this request of the Commons for a speedy answer was delivered to the King by a Committee of the Lords, headed by the Earl of Northampton. The King's reply was favourable, and was entrusted to the Lords in order to be by them delivered to the Commons. A Conference was accordingly appointed for Monday, March 12].

After this Conferance there was another meetinge apoynted of both Howses, which was the xiii[th] of March.[b] At what tyme the Earle of Northampton delivered unto us the King's answere to our former mocion, whereby he gave us leave to treate concerninge the discharge of Tenures and all dependances thereupon.[c]

There weare divers reasons whie the Kinge yelded to this mocion:

1. First, he noted our humility, in that wee wold not presume to deale therin without leave. 2. our dutifulnes in referring all to his serious Judgment. 3. our cautyon in propoundinge yt not as a greevance. 4. discrecyon in not desiringe yt gratis, but upon valuable consideracion. 5. our judgment in joyninge with us the Lords of the higher howse.

He said further, that there were some things beside the matter of Tenures which weare formerly moved unto us, as the matter of Purveyance, and some other things wherein the Kinge was interested *De Jure*, yet weare heavy to the subjects, which his Majestie was willinge to parte withall for theire good; for, thoe he was in hope that shold never come a Pharo out of his loynes which shold forget Joseph, yet, for the good of his people, he was willinge soe farre to bynd the hands of himselfe and of his posterity, that thoughe they

[a] Acceleration.

[b] The 12th, as appears from the Journals of both Houses. Reported March 14.

[c] A full report of this speech is to be found in Northampton's own handwriting in the Cott. MS. Titus, C. VI. fol. 458 a.

should have the mynds, yet they should never have the meanes to hurt them. And for the more full manifestacion of his love and affeccion, he was content alsoe to parte with theese tenures which, as he said, was the faire Helen which we all did wooe. And nowe, said he, of that that I have spoken, I may say *Dominus, non ego.* But of that which I am to speake, I must say *Non Dominus, sed ego.*

In the former, he said he had delivered unto us the King's gratious answere, wherein he did excuse himself, in that non ought to grave Alexander but him that was able to give him true proporcion. And in the latter parte of his speech he used divers reasons to perswade us to proceed with cheerefullnes and alacrity in the busines and to supply the King's wants, settinge forth unto us, as he did alsoe in a former speech of his, his Majesty's greate diseases.[a]

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[At this point the MS. stops short, leaving an interval of two months before the reports are resumed. Between the two portions of the MS. there are several blank pages, as if the note-taker had intended to fill them in at some future time. It is therefore necessary to look to other sources[b] for the proceedings during the interval.

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[a] The conclusion of this speech, for which a fragment of that of March 1 is substituted in the MS., is here given from the Cott. MS. before mentioned, fol. 460 b :—

After his [*i. e.* the King's] arisinge of the chaire, all we supposinge that his speech was at an ende, it pleased him to make a pawse, addinge but a worde ore two, and as it wear a remnant to the rest that went befor ; but yet with such a spirite of integrity and earnestnesse as, with the philosopher, by that one droppe we that wear then at hand might easily apprehend the fixing of that element in fit proportion.

For, saies he, I looked to here some complainte of abuses in the ministers and officers of that courte, if any such had happened since our cominge to the crowne, leaste otherwise perhaps the worst disposed sorte might apprehende or publishe with a kinde of derogation, both from the subjects' love to me, and my indulgence and tendernesse towards them, that such abuses wear the motives of the leave which I grant to treat of Tenures.

Upon this apte occasion, this seasonable offere by the King's most gratious enclination to yeald them satisfaction in so high a point, I craved leave to steppe a little furder in to the dewe consideration of certain motions that might invite and move them to good measure in this worthie worke in hand, which dutie on us the present state of thinges requires, and necessitie importunes.

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[b] The sketch here given is taken from the Journals of the two Houses and from the Harl. MS. 777.

The Commons, after voting that thanks should be given to the King for his reply to their demand, appointed a Committee of the whole House to meet on Friday, March 16, and to continue sitting every day from seven to half-past nine in the morning until they could come to some decision. In this Committee the whole subject of Wardship and

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I tooke notice of the distinctione expressed in the holy canon by the pen of the swift writer, between those *membra dividentia*, *non ego*, *sed dominus*, and *non dominus*, *sed ego*, since, the first part beinge acted, the second maie be expected of a man whom the same spirit steeres and governs.

My desire was that all prejudice and dout might be excluded from the consultation about proportiones and meanes as great lettes to the prosperous effecte that might ensewe, since nothinge is more reasonable then for judgemente and opinions to change upon the variation of accidents.

I told them that, supposinge all affections and enclinacions to stand in *statu quo prius*, this was greate cause as well for me as for them to doubte or rather to dispaire of any happie yssue in those affaires; for all men know that with everie openinge of a vaine some spirits spent, that frequent evacuations in time dissolve the native heate, and that in all diseases that are violent relapses are incurable. But the case stands otherwise with us, for *multa dies*, *plura dolor*, *omnia necessitas*.

I told them that I had befor in this place touched the fair lykelyhood of the King's owne disposition to staie the fluxe that left the body weake; for it is one thinge to create a confidence, another to expresse a certaintie.

His Majestie did understand more at the present touching the trewe proportions of ordinarie meanes, then when he thought that manie thinges might easilie be spared that at this daie can not easilie be recovered.

He tasteth of the worldes ingratitude, he heares of the construction which theie make of his benignitie, he grows everie day more weary of suters that ar importunat; experience hath taught howe eagerlie men crave, howe unwillinglie theie consider of proportiones of possibilitie, howe apte theie are upon meanes that are finit to raise desires that are infinit.

His Majesty knowes this to be the last helpe extraordinarie, that for support he maie expect. He doubteth not but that out of your owne discretion and caution you will conceave howe much it will be easier for yourselves to repair his state, while some means of his owne remaine to make the burden light, then after that these are consumed and exhausted utterlie to drawe the weight of all upon yourselves; as of necessitie you must, concluding that the monarch must be mainteined so long [as] you support monarchie. It is not rare in our daies that theie which have bene apte to bleed in the vaine of bowntie, upon change of disposition have bene the most warie menagers. The medicine that worketh upon the right humor most effectually in the mindes of Princes is presented for the most part with compunction and smart, and *nulla remedia tam faciunt dolorem*, *quam quæ sunt salutaria*.

If you heard the worthie Lord that first spoke of the subject, and upon whose certaine plaine songe my poor descant runnes, yeald manie reasons of shrewde lykelyhood that

Tenures, "and the dependances thereon," was to be freely discussed. On Monday, March 26, Sir Henry Montague presented the report of the Committee. He "said[a] they had layd 4 grounds of their treaty: 1, what to aske; 2, what to offer; 3, howe to levy; 4, howe to secure. Of the two first they have treated and agreed of many particulers what to aske, and to offer for them 100,000 li. p. ann." The same afternoon the Lords were informed by the Commons of the conclusion to which they had come.[b] The Lords postponed their answer till after the Easter recess. On Wednesday, April 18, they determined to give no reply until they had referred the matter to the King. On Friday, April 20, the King's decision was communicated to the Commons. He would not part with the Tenures themselves, but was willing to consider any reasonable offer for all the burdens connected with them. On Thursday, April 26, the Commons asked what would be considered a reasonable offer, and were told that the King would accept nothing less than 200,000*l.* a-year in addition to a sum equal to the loss he might sustain by his concessions.[c] On

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worke maie be cutt out for those that wold keepe holidaie, and freshe occasions arise dailie out of the variable changes in the mindes, affections, and humors of great persones in the world to move jelousie; and therfor, since our manner is by distribution of truste in causes œconomicall, for the orderlie directions of our own families to leave a stocke ever in the steward's hand for the driving of some bargain in our absence for our good; whie should we not much rather, and with stronger confidence, relie upon the caution and wise consideration of the high steward, and the steward of all stewardes, in disposinge of a rounde stocke for our good: considering howe manie weightie causes passe by his most provident and ever watching care which neither we can nor ought to search with curiositie or understand by communication, till the wisdome of the state think good to declare them.

By the judgement of a great philosopher the seedes of great effects are covered with dark vailes by providence, bycause they will neither be prevented nor encountered. The fatal ladies, as the Greek poet notes, use to engrave their powerfulest decrees in black marble. The preists of Egipt represent their misticall conceits in figures that, in shewe, seeme to be most unsutable. *Nescit aurora quid vesper vehat,* and the time serves ill to call for oile when the bridegroome makes his enterance, shutting fast the gates of opportunitie.

We see that wise marchants in a storme caste some of their small wares overboard to save the vessel. Jonas was content in his owne persone to be caste over. Upon so great examples we maie be encouraged to spend our whole affection, our best meanes and industrie for the stoppinge of a great leake in this royall shippe, which bringeth, not like Jason's argosey from Greece *delectos heroas,* but, to speak trulie, *rem, spem, subolem, denique Cæsarem, et fortunam Cæsaris.*

[a] Harl. MS. 777, fol. 31 a.

[b] The particulars of the demand made upon the King are to be found in the Lords' Journals, ii. 574.

[c] See Appendix A.

Friday, May 4, the Commons sent a message to the Lords, acquainting them with their refusal to offer more than 100,000*l.*, and breaking off the negociations in consequence.

The notes recommence with some arguments against a Bill prohibiting merchants from trading in foreign ships. It does not appear from them whether these are taken from the arguments urged in debate, or, as is more probable, from some petition presented to the House. The only notices in the Journals of any Bill to which these arguments can apply, speak of one which they mention under the title of "Shipping and mariners," which was read a second time Feb. 28, and referred to a Committee. The next notice of it is, "Die Mercurii, 25° Aprilis. Tuesday. Shipping. Chequer Chamber. Sir Maurice Berkley." This Tuesday was May 1, and, with this debate in Committee, the following notes are probably connected. There is an Order on Thursday, May 24, that counsel shall be heard on this Bill "to-morrow," after which no notice is taken of it in the Commons' Journals.]

Reasons made against the Bill that no merchant should trade but in English shipps:—

1. The price of the freight is much dearer in English bottoms then in strangers'; for, where the merchant may have the one for 40*s.* per tonne, he must pay 50*s.* for the other.

2. The owners will rayse theyre freight higher when they knowe the merchant is bound to employ theyme and none other. The merchant wilbe undone.

3. The dearth of the freight will rayse the prices of all comodities, and so a hevier burthen will fall upon the subjects and comonwealth in generall.

4. Some comodities are brought in which English shipps cannot carrie, as long mastes, &c.

5. In tymes of warre with other nations, if Englishmen had not coulored their goods in strangers' bottoms, theyre trade had bene gone.

6. It is dangerous for the merchants and men, for, if they have not theyre choyse of shipps, old and unserviceable shipps will be thrust upon theyme.

7. If the law passe it wilbe a breach of treaty and comerce with other nations, Emperor, Belgia, France.

8. If the lawe passe, all other states will make the like lawe, and so trade will decay.

9. The like lawes being made heretofore were after repealed for

the inconveniency they had. 5 R. 2,[a] 1 H. 7,[b] El. 1.[c] The navy flourisht synce 1 El.

10. Parte of the bill that wynes shold not be brought in ante 1 Dec., which if it were, strangers would bring in before and take the whole trade.

11. A certitude to be procured that there were not other shipps, which will be troblesome to procure and hynder his voyage.

[The Committee for Grievances had been busy preparing their report. On Tuesday, May 1, on a motion of Sir Edwin Sandys[d] a Committee was appointed to search for precedents concerning the King's claim to lay Impositions without the consent of Parliament. On Friday, May 11, as the House was about to proceed to a consideration of their grievances, the following scene took place:—]

Mr. Speaker telling the howse that he had a message from the King's majesty, and desyreng to knowe theire pleasures, whether they would heare it. After he had delivered it (which was to comande the howse not to dispute of the King's power and prerogative in imposing upon merchandises exported or imported). For that the King was absent, and so had bene for a weeke before, he was pressed to tell how he came by this message: whearin he excusing himself for a long tyme, in the end did confesse that he receaved this message from the body of the Privy Counsell.

SR WM. TWISDEN.[e]

Whearupon it was added:—

That the same message coming not imediately from His Majesty should not be receaved as a message; and that, in all messages from His Majesty, the Speaker, before he delivered theyme, should first ask leave of the Howse according as had anciently bene accustomed.

[a] Stat. 1. cap. 3.

[b] Cap. 8. This and the former statute restrain exportation.

[c] Cap. 13, by which the export by Englishmen in foreign bottoms was permitted.

[d] Member for Stockbridge.

[e] Called in the list in the Parliamentary History Sir W. Twissenden. He was member for Thetford.

[The following refers to the message received from the King on Monday, May 14, and to the debate in Committee in the afternoon of the same day.]

Within few dayes after, His Majesty sent us another message, requyring us to answer with all expedicion this question either negatively, or affirmatively.

"Whither have you any purpose to refuse or will you refuse any message sent unto you by the Speaker, upon declaracion by hym made unto you that it cometh by warrant from His Majesty by worde or wryting, or from the body of his Privie Counsell?"

Upon this message receaved the Howse chose a Comittee to consider of an answer. Whearupon it was long debated amongst theyme. Concerning the later parte of the question, which toucht the Counsell, the generall resolution of the Comittee was to make answer that they would receave no messages coming from the Counsell as messages sent from His Majesty.

And for messages to be sent from His Majesty imediately, they were unwilling to answer what they would doe *in futuro*, but onely to give answer to theyre present purpose; which was agreed (in effect) to be sett downe as followeth:

"Wee have no will nor purpose to refuse to receave any message sent or to be sent unto us imediately from your Majesty by our Speaker, either in word or wryting: but to receave the same being delivered unto us according to the ancient order of the House."

To this it was objected that it was not full enoughe to answer all the parts of the question, and that it contayned a negative pregnant, which is, as Mr. Alford[a] sayd, when something is conceaved in the wombe of the future which is not delivered.

So that the King's Counsell, seeing they could procure a better answer for the King's satisfaction, rose sudainly up. And the next morning wee receaved a message by the Speaker from His Majesty not to troble our selves any further with that question, that he expected no answer thearunto from us.

[a] Member for Colchester.

[On Friday, May 18, the House, finding the debate on Impositions was thus prohibited, appointed a Committee "to treat of a message to His Majesty to give him satisfaction for matter of Impositions. . . . . To consider likewise of a message of satisfaction touching the King's former message touching Messages." The Committee was to meet the same afternoon. On the following day, Saturday, May 19, they were still engaged in discussing the question when another message was brought from the King.]

Notwithstanding, the King being much disquieted in mynde with the order, (as he himself sent us worde a fewe daies after,) it was found upon examinacion that the clerke had not entred it. Whearupon the Howse thought fitt to staie the entring thearof, and to give some satisfaction to His Majestie by a message to be sent unto hym. The substance whearof was—

"That, whearas some question had bene moved in the House concerning messages to be sent from His Majesty, wee did humbly desyre hym to receave that assurance from us, that wee had no intention to vary from that duty which our ancestors have performed to his moste noble progenitors. Neither had wee any other purpose in any our proceedings then to retayne that due respect from the Speaker which appertayneth to the Howse, and which those that served in that place before hym did carefully performe," &c.

With this message His Majesty was well satisfied, and appoynted us to be before hym on the Monday following at Whitehall.

[The King received the House of Commons on Monday, May 21.]

At what tyme he made a long speeche,[a] putting us in mynde of the long tyme wee had spent in matters impertinent (being in all

[a] State Paper Office, James I. Dom. liv. 65. "The speach onely directed to the House of Commons, yet spoken in presence of the Lords, because, though they are two Houses, yet are they but one bodie, and what concerns one, concerns both. The burden is equal betwixt both Houses, though the partition be for form's sake. The introduction was a repetition of the beginning of the King's last speach, which he sayd was Eucaristical, though in a sadd time. The time was now more joyfull, yet he must change his stile, and begin with a greevance, which was that in 14 weekes nothing was done in the principal errand for what the Parliament was called, and not half so many dayes spent in consideration of that business as weekes in others, so as that which was the principall errand is made but an accessorie, which he would confess came purely by accident, but much

about 14 weeks), and after he had ended that poynte, and perswaded us to deale more roundly in the buisnes wee had in hand, especially con-

of it by too much curiositie. The principal arrand of this dayes werke grew uppon occasion of our message touching the receaving of Messages, wherin he was very well satisfied of our answeare, and it might be a proofe that no curiositie moved this question, since there was such easie satisfaction.

"He would now againe forewarne us of the principal arrand, and foreseeing an incident which will breede longer delay, he chose to speake himself without messages.

"The ground; the message touching Impositions.

"In the King's last speach, it was not lawfull to dispute what a King may doe, but what a good King should doe.

"No intention that we should forbeare to complaine of the burden and inconvenience, acknowledging that we may complaine of any just greevance.

"But we must not dispute the King's power of imposing in generall, which he hath both by judgment and law.

"Leave to the King what he may doe in his power, and talk of the inconveniencie.

"All Kings elected and others have this priviledge, should now, as Bellarmine saith, 'Solus rex Angliæ tenet,' &c.

"Two women before him had it, then why should wee move him the question.

"In Asserts wee would have a bill.

"Custome and lawes, and what is long in use, not to be called in question.

"None in his private estate would permit it.

"3 arguments against the King: president, act of Parliament, humane reason.

"1. An ill consequence, because Kings in particular cases may doe a thing to barr the King's power in generall. Instance, Stephen Proctor.

"The King gives leave in particular cases by way of bargaine, or information of truthe, to deale with use, so wee touch not his power.

"2. No act of Parliament that denudes the King of the power of imposing Penall Statutes.

"3. If a man will advise himself, he will putt a crosse [on] his mouth. Diverse similies to this end: because a King may be ill, therefore he should have no power. This were to make a King a Duke of Venice. No rule for an ill King but *preces et lachrimæ*.

"Priveleges of the Lower House may be abused; therefore shall I take away all privilege? Do herein as you would be done unto.

* * * * * *

"If we find any one or two Impositions greevous, wee must offer somewhat for it.

* * * * * *

"Because he may err in the forme of laying Impositions upon misinformation, he would never do it but in Parliament. He would heare what both Houses could say.

"If you find better meanes to supply my State, &c. he will not proceed to Impositions.

cerning our principall errand, as he called it; which was supplie and support. He told us he was well satisfied with our answer, and in the end fell into a long speache concerning his power to impose upon merchandises (thoe his speach was generall and concerned all his subjects' goods).

Notwithstanding he sayd that when the new imposition was sett, he did it by advise of merchants whoe are skylfull in matters belonging to theyre profession. And that yet, notwithstanding he did then resolve 2 things, First, not to convert it to the benefite of any private person (for, he saied, that were a parte of tyrany, to take it from the publick and to give it to private persons). And, secondly, he resolved to impose no more but in parliament, where he will first propose it to be debated.

But, he said, he neither could nor would bynde himself or his posterity. He did insist upon some instances in the Kings of Denmarke, France, and Spayne, who did impose without any question made by theyre subjects; and comanded us not to call his power or prerogative in that poynte in question or to debate these.

[A Committee appointed to consider the King's speech. Tuesday, May 22.]

This speeche was so distastfull in some parts thearof to the Howse, as that, the next morning after, they entred into debate thearof, and made choyse of a Committee to devise upon some course to be taken to informe His Majesty how much the liberties of the subjects and the privileges of the parliament was impeached by his inhibition to debate his prerogative.

Whearupon [a] divers speeches were made by divers, as, namely, by

"Some thing he may doe out of Parlament, which he would rather doe in Parlament, not to binde power, but to respect conveniency.

"This should move Parlament men to carrie themselves in that sorte that he may have often use of Parlament, where he would think himself happie to have advise, as in making warr, &c.; which he might doe of himself, yet those which doe beare parte of the burden should be acquainted with the counsell, &c."

[a] In Committee. The debate in the morning, in the House, will be found in C. J. i. 430.

Mr. Fuller, Wentworth, Sir Nathaniel Bacon,[a] Sir Francis Bacon, Sir Roger Owen,[b] Sir George More,[c] and divers others.

Mr. Fuller repeated parte of a speech that was formerly spoken by Mr. Whitlock,[d] which was that the English nation was accompted in tymes paste by all others in 3 speciall respects:

1. That that which is the subjects' cannot be taken from theyme without theyre consent, but by due course of lawe.

2. That lawes cannot be made without the consent of the three estates.

3. That the Parliament consisting of theise 3 estates was the armamentary or storehouse whearin theise things were safely reposed and preserved, as well the lawes of the land as the rights and proprieties of the subjects to theyre lands and goods.

And that the speciall priviledge of parliament is to debate freely of all things that shall concern any of the subjects in particuler, or the Commonwealth in generall, without any restraynt or inhibition.

Wentworth. Secondly, it was sayed that in all ages the King's prerogative (which was the matter then in question,) hathe bene examined and debated in Parliament, as playnely appeares by the statute of Prerogativa Regis[e] made temp. E. 2 (which, 15 E. 4, is sayd to be but a lawe declaratory of the Comon lawe in that poynte). Instance also was given of the statute of 25 E. 3[f] concerninge treason, and of all the statutes made against purveyors, wherby theyre authority, and consequently the King's prerogative; was restrayned. Also it was sayd that in all Corts of Justice at West-

[a] Member for Norfolk, and half-brother of Francis Bacon.

[b] Member for Shrewsbury. [c] Member for Guildford.

[d] James Whitelock, afterwards one of the Justices of the King's Bench. He had been elected for Woodstock in 1609, having never before been a member of the House. The speech of his here quoted had been delivered in the morning debate of the same day. See his own account of his proceedings in this matter in his Liber Famelicus, (Camden Society, 1858,) p. 24.

[e] Formerly printed as 17 Edw. II. Now placed among the statutes of uncertain date (Stat. of the Realm, i. 226). In it several matters connected with Wardship and Tenures are treated of.

[f] Stat. 5, cap. 2.

minster, the King's prerogative is there ordinarily disputed, and therefore may much more be debated in Parliament being the highest Cort of Justice in the realme.

But Sir FRANCYS BACON tooke upon hym to answer theise reasons, and sayd that he would rather speake thearin according to the freedome of his mynde then according to the propriety of his place. He begun with a text, *State super vias antiquas, sed videte quœnam sit via recta et ambulate in eâ.*

He sayd that he had bene a parliamente man ever synce he was 17 yeares olde, within which tyme he did observe that the parliament had receaved divers inhibicions from the Queene to restrayne theyme from debating the matter then in question; whearin he tooke this difference, that, if the matter debated concerned the right or interest of any subject or the Comonwealth, if in that case an Inhibicion came, he, for his parte, would not advise the Howse to desist, but to informe the King of the liberty of the Howse, and so to proceed. But, if the matter in question were an essentiall thinge which concerned the prerogative and the power of the Crowne, then the Howse did allwayes desist from proceeding any further upon such inhibicions receaved. He gave instance of divers in his tyme.

In the last Queenes tyme some debate was moved in the Howse concerninge the Queen's marriage, whearupon the Queene hearing thearof sent an Inhibicion, which was obeyed accordingly.

Not long after divers tymes the matter of Succession was moved, and the Queene sent the like inhibicion.

In a° 23 Eliz. a generall fast for the whole Comons howse of parliament was agreed upon, and it was apoynted to be in the Temple Churche, where solemn warninge was given by Mr. Travers the Sondaie before the day apoynted. But the Q. sent an inhibicion to the Howse for that it pertayned to her ecclesiasticall power to apoynt fasts, and not proper for the parliament which was onely to medle with *meum et tuum.*

So, in Queene Maries [time] the parliament howse entred into a debate what severer course were fittest for the Q. to take with the

officers of her howse (then was then used). But the Q. sent an inhibicion unto theyme, for that it concerned her in her patrimony, which together with her servants shee was able to governe without advise of Parliament. And therefore he perswaded the Howse to present theise matters of Impositions as greevances to the Comonwealth (which the Kinge had given us leave to doe), but not to question his power and prerogative to impose.

In answer to this speeche divers stood up. By whome it was answered that, as wee *ambulare in viâ rectâ*, so it is an express text also not to remove the ancient landmarks, and therefore wee must be carefull to followe the stepps of our ancestors, but to preserve and mayntayne the liberties and priviledges of our Howse.

To the severall instances of inhibicions that were put, it was answered, first, that mariage did concerne the Queene in her naturall capacity, whearin, shee knowing the state of her body, knewe best what was fitt for her to doe; and succession did concerne her in her pollitick capacity, the same being not determinable by parliament, but by inherent right deryved from her ancestors by birth. So, to apoynte publick fasts did belong to her ecclesiasticall power (as also the reformacion of the comunion book of prayer which was debated in parliament). But if it be true, as Mr. Solicitor confessed, that the parliament may not be inhibited to debate of any thing that concernes the right of particuler subjects, much lesse can they be inhibited in this matter of Impositions, which concernes the rights and interests of all the subjects in generall in those things which they enjoy, and the liberty of the howse of parliament.

It was moved thearfore, that, as the King had granted us freedome of speeche at the begininge of the parliament concerninge all matters of the Comonwealth (which could not well be taken from us without shaking the foundacion of the liberties of parliament), so we should by a Petition of Right make knowne our liberties to His Majesty, and desire hym to remove the impediment, for, thoe it [is] Solomon's counsell not to move the Kinge, yet it is his counsell also, that if his spirit be moved yet leave not thy place.

In the end, it was concluded that a petition *de droit* should be sent to His Majesty to the effect following.[a]

Most gracious soveraigne; whearas wee your Majesties humble subjects the comons assembled in Parliament have receaved, first by message, and synce by speech from your Majesty, a comandment of restraynt from debating in Parliament your Majesties power to impose upon your subjects' goods exported or imported, yet alowing us to examine the greevance of those Impositions in regard of quantity, tymes, and other disproportions: wee your Majesties loving subjects, nothing doubting that your Majesties meaning was to restrayne or abridge us of those liberties and privileges which did anciently belonge to our predecessors serving in parliament, are bold to make this remonstrance thearof unto your Highnes.

First wee hold it an ancient, generall, and undoubted right of parliament to debate freely all things properly concerning the subjects, and theyre rights and interests. And whearas the subjects' right on the one side, and the King's prerogative on the other syde cannot be secured, wee doe alledge that in all your Highnes' Courts at Westminster your Majesties prerogative is and hath bene from tyme to tyme debated and disputed without restraynte.

Wee also humbly desyre your Majestie to be informed that wee have no mynde to impugne, but a desyre to informe our selves of your Highnes' prerogative in that poynt, which, if ever, is now moste necessary to be knowne, thoe it were but to give satisfaction to the generality of your Highnes' subjects, whoe doe languish in greate sorowe and discomforte under the burthen of theise Impositions.

Neither have wee any purpose to reverse the judgment lately given in the Exchequer, but to understand the reasons whearupon the same was grounded; and the rather for that a generall conceipte is had that the reasons of that judgment may be extended further to the utter ruyn of the ancient liberty of your realme, and of your subjects' rights and proprieties in those things which they enjoy. Beside, as that judgment is not finall but reversible, so is it not

[a] The petition, of which this is an abridged form, is printed in the C. J. i. 431.

generall and bynding to all, but onely to those whoe were parties to the same.

And therefore, for that wee cannot proceed any further without concluding for ever the right of the subject, which without due examinacion wee cannot doe, wee humbly desyre Your Majesty that wee may [be] sett at liberty to proceed in our debates and consultacions according to the ancient orders and priviledges of the Howse, &c.

[The petition was presented to the King on Thursday, May 24.]

This petition was wrytten and ingrossed on parchment, and so sent by Sir Julius Cæsar and 10 or 12 more with hym,[a] who coming to Greenwich, where the Kinge was, were sent for into his withdrawing chamber, where, receaving the petition, he tooke tyme to answer till the afternoone the same day.

At what tyme, in the same place, in the presence onely of a few of his privy counsell, and those messengers which came from the Howse, he retorned this answer.[b]

That he had considered of our petition, and conceaved that it was grounded upon 2 motives: 1. A mistaking of his message. 2. And a jealous interpretation of his speache. He sayd, his message was not absolutely to forbid us from treating of the Impositions, but onely untill wee heard his further pleasure; not with any intent for ever to restrayne us; but he being from us 70 miles, and hearing of our disputations, thought it fit to understand our intentions.

In his speech he did not intend to clayme any thing but as a Kinge of England *in abstracto*, and that which good and vertuous kings, his progenitors, ever had; neither would he medle with any property of *meum* and *tuum;* neither would he impose upon any of his subjects' lands or goods, but onely upon merchandises exported and imported, and that in Parliament. He desyred us to deale as

[a] Report of delivery of the petition made, May 25. C. J. i. 432.

[b] There is another report of this answer in the State Paper Office, James I. Dom. liv. 73.

charitably with hym as with other civill men, and to distinguish betweene his reasons and conclusions.

For our petition, he granted it as wee had sett it downe our selves. But he putt us in mynde to observe 3 things thearin contayned—

1. Not to impugne his prerogative.
2. To seeke his content and satisfaction.
3. To indeavor to unyte and confirme his subjects' hearts unto hym.

Protesting that he never meant to abridge us of any liberties appertayning unto us, which he hoped wee would not abuse.

He hoped also that the parliament being called to relieve his wants will not take from hym with one hand [that] which wee give hym with another.

He sayd that all other princes are now in action, and would wee have hym stand at gaze?

His desyre was that mistaking might no more interrupt our buissnes. He confessed that he findes that many things are misreported, and that he found in the petition more duety then he heard of before.

Lastly he offred that if a convenient number of the Howse (upon any doubt conceaved) would come unto hym at any tyme (without using ceremonies and complements), they should have accesse unto hym, privately either in his gallery or elsewhere, to debate familiarly of those things that shall come in question; advising us to use what speed wee possibly might in our buisnes, by reason especially of the present tyme of the yeare, which will shortly call us home into the contry, &c.

With this answer the Howse rested well satisfied: and thearupon entred into debate of 3 speciall things; whearof the first was:—

1. The execution of the lawes against papists for the safety of His Majesties person.
2. Touching the Impositions.
3. Touchinge supporte to be given to His Majesty.

[On Friday, May 25, a Committee was appointed to consider what measures should be taken against the Recusants. The House was desirous of taking some steps in consequence of the panic which had set in upon the arrival of the news of the murder of Henry IV. on $\frac{14}{24}$th May.]

1. Concerninge the first, it was agreed that a petition should be sent by the Speaker as from the Howse; that His Majesty would take some order by proclamacion or otherwise.

i. First,[a] that all Recusants in or nere London should presently depart thence to theyre howses, and there be confined according to the statute of 35 Eliz.[b] And none to come hither or within x miles of the court upon the penaltie contayned in that lawe, *non obstante* all lycences and dispensations to the contrary.

ii. All forbidden to repayre to the howses of forrayne Embassadors to heare masse.

iii. All Jesuits and Seminary preists remayning in prison and convicted, to be forthwith comitted to close prison, and none to have accesse unto theyme.

iv. All Jesuits and Seminary preists that are [at] liberty upon bonds to be apprehended, and to be comitted to close prison, and none to have accesse unto theyme nor they to conferre one with another.

5. All Recusants to be disarmed and theyre armour to be disposed according to the statute.

[On Saturday, May 26, the Committee presented the articles. The House adopted them, and requested the Lords to make them the basis of a petition to the King.]

This was made knowne to the Lords of the higher House, who assented therunto; but for that none could speake for bothe Howses, either Howse did present it by theyre owne Speaker.

[On Monday, May 28, the petition was presented.]

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[a] By the side of the page which begins here is written "Memorandum S^r Wm. Bolstrod's speeche of the Corte Recusants that heard sermons in the King's chappell. If any man winse, I would the King would give me leave to spurre hym." Sir William Bulstrode was Member for Rutlandshire.

[b] Cap. 2.

The Archbishop of York delivered it in the name of the higher Howse, (my Lord Chancellor being not well,) on Whitson Monday in the morning.

And presently after, Mr. Speaker and 40 of the lower Howse were admitted.

The message being delivered by the Speaker; His Majesty answered that he had greate cause to thanke theyme in 3 speciall respects:—

i. First, for that they were carefull to upholde that religion which he alwayes professed and which [he] was resolved ever to mayntayne; the religion of the papists, both in the practise and in the speculative, being but, as in tymes paste a butchery of Sayncts, so now of Princes.

ii. Secondly, for that they were carefull for the safety of his person; whearin wee had given hym by this petition more security than wee were aware of: in regard that they shall now see that what shall be done against theyme [is done] upon the generall desyre of his subjects, and not out of his owne humour and tyrany, as they now report.

iii. Thirdly, our loves and affections did hearin evidently show it self, especially consideringe it did originally arise from us; thoe the same petition was first made unto hym by the Lords.

He sayd that he was resolved to doe that which wee desyred. But of the tyme, and some other circumstances, he was not yet resolved. But he would presently advise with his Counsell, and take order for the due execution of the lawes against theyme, which being done, there should be no further forbearance or favor shewed unto theyme for no man's pleasure. And of this, he sayd, he was fully resolved.

Notwithstandinge, he wished us to be carefull to supplie some defects in the former statutes concerninge the oath of allegiance, &c.

[The King's reply reported on Wednesday, May 30.]

And this answer was reported to the Howse by the Speaker at our

first meetinge after Whitsontyde, beinge on Wensday in the Whitson weeke.

[Either the members who had been ordered on the 1st May to search for precedents connected with the disputed right to set Impositions had failed in performing their duty, or their commission had not been sufficiently large. At all events, a new order was made on Saturday, May 26.]

2. Concerninge the matter of Impositions, it was ordered on Saturday last that 8 of the Howse should serch in the Tower for records, and 8 other in the Exchequer and all other Corts, and to retorne what they find, and thearupon the matter to be debated.

[The King's concession had revived the idea of making a provision for him in the straits to which he was reduced. The House were about to proceed to discuss once more the question of support and supply on Saturday, May 26, when a message was brought from the Lords requesting a conference in the afternoon, not for the purpose of renewing the negociations at that time, but in order to induce the House of Commons to entrust their Committee at future conferences with larger discretionary powers. The Lords had before complained that the Committee of the Commons refused to enter into argument with them, but confined themselves to reporting what they heard to their own House.]

3. And for the matter of support, whearin the Lords on Saturday last did desyre a free and mutuall conference between both Howses, it was then yealded unto us as no man shold speake any thinge out of his owne sense and opinion, but out of the sense and opinion of the Howse. And therefore to that end it was agreed that some dayes should first be spent amongst ourselves, and thearin to consider of and resolve upon what poynts were fyttest to be stood upon.

Sir Edwin Sands sayd theyre were 3 sorts of Conferences—

1. For every man to speake his owne opinion without direction from the Howse, whearin the Howse receaved often greate disadvantage.

2. The Howse first to debate and resolve, and then to devide to certayne men theyre parts, which kynd of conference was used in the bill of the name of Greate Brytayne, and in divers other bills, as Sir Francis Goodwyn's case.

3. To heare and not to answer, which is rather an audience or

meeting then a conference. The second kynd of conference was agreed upon.

[On Friday, June 1,[a] a sub-committee is chosen to consider the ten branches of the prerogative which Salisbury had offered to resign.]

On Saturday, 2° Junii, it was agreed that a sub-committee should be chosen of all the lawyers in the Howse, and others named, to drawe those seven[b] things offred by my Lord Treasurer into such forms as they may be moste beneficiall to the subjecte. And thereupon the Grand Comittee to consider whither they be valuable, and whither they will bargaine for theyme or noe together with the wardships; but the sub-committee not to value theyme.

Of this sub-committee some were unwilling, viz. Sir Jo. Savell,[c] Sir Rog. Owen, and others.

Sir Jo. Savell saied that a sub-comittee was to no purpose in this case, first, for that he held theyme not fitt to [be] bargained for at all either by supplie or support; and secondly, for that the hundred thowsand pound per ann. already offred wilbe as much as the subjects can well yeald. He wished also that the name of supporte or supportacion had never bene knowne, for, sayd he, thoe nowe it be a word unusuall unto us, yet he dowbted that hearafter it would become too familiar unto us; and that if wee bargaine for those 7 things offred, which all are either the strayninge of the prerogative royall upon the libertyes of the subjects, or abuses of inferior officers, wee shall fynde that every parliament there will be some thinge or other found whearin the subject will be grieved, and wilbe inforced to give a further support for the discharge thearof to the kinge, so that it will be as usuall to give a support as a subsidy. He gave instance that 30 yeares synce in Q. Eliz. Sir Walter Mildmay being Chancellor, and 2 subsidies being demanded, Sir Walter

[a] This is the date given in the C. J. i. 434, and Harl. MS. 777, fol. 44 a.

[b] "Ten" in the other reports. Three of them were included in the proposal for abolishing wardship and tenures.

[c] Sir John Savile, member for Yorkshire.

Myldmay sayd the name of 2 subsidies was strange unto theyme, havinge never given but one before, and therefore he advised that they should give but one subsidy, but that they should be taxed so much deeper in the pound. But in the end the Howse did yeald to give 2 subsidies, upon promise made to the Howse on the behalf of the Queene that the like should be never more heard of.

But how this promise hathe bene kept (sayd he) you all knowe as well as I.

And another sayd that, for the matter of Purveyance, the greavance Tay.[a] consists in the abuses of the inferior offices, which he thought not fitt to be bought out; for then, sayd he, the like may springe up againe the next yeare, and so wee be forced to redeeme theyme also.

But, if wee shall fynde ourselves able to give more [than] one hundred thowsand pounds per ann. then he wisht that wee might buy out a general statute of explanacion of the King's Prerogative, so farre as it might tend to the right and liberty of the subjecte in his body, lands, or goods.

Mr. Whitlocke sayd that this matter of support was a thinge strange, and never heard of in Parliament but once, and that was in a° 11 H. 6, at what tyme the Kinge made knowne his wants in Parliament, which was that he was 360,000 li. sterling in debt, which now, said he, comes to 12,000 li.,[b] and for this he demanded a supplie. Likewise he declared unto the Parliament that his payments were more then his receipts by 60,000 li., for which he demanded an yearly support. Whearupon the Comons did long debate the matter, so that the Parliament was contynued *usque ad* 28 H. 6, at what tyme the Comons, not knowing how to releive the King by theise means desyred, an Act of Resumption was concluded upon.

For the poynt of Purveyance, he sayd it was to no [purpose][c] to

[a] John Tey, member for Arundel.

[b] This is unintelligible as it stands. In 11 Hen. VI. the King's annual expenditure exceeded his receipts by 35,000*l*. In 28 Hen. VI. when the Act of Resumption was passed, the excess was 19,000*l*. and the debt was 372,000*l*. (Rolls of Parl. iv. 432, and v. 183.)

[c] "Purvayance" in MS.

compound for it, for the like abuses and the like charge would hearafter growe upon the subject, as in the matter of Impositions, for it appears in the rolles of Parliament that tonnage and pondage were given at the first for the discharge of all impositions upon merchandises, and yet wee see that impositions contynue, and doe dayly increase.

For the other matters offered, some are particuler and concerne some persons onely, as the matter of entry for condicions broken upon lessees. So the matter of generall issue upon informacions preferred; and to buy out the 2 maximes offred, it is a thinge that will depend upon the power of the judge and *sententia hominis*, and is not fitt to be bought out.

On Sunday the 3rd of June, the Lords of the Privy Councell voluntarily tooke the oathe of allegiance.

[Prince Henry created Prince of Wales, Monday, June 4.]

On Monday the Prince was created Prince of Wales and Earle of Chester in open Parliament, bothe Howses sitting together in the Corte of Requests, and the King also being presente.

The King sat at the higher ende under a riche clothe of estate.

In either corner on his bothe hands were made severall places for embassadors of forrayne states.

On the right side sate upon scaffolds the Lord Mayor of London, and the Aldermen in scorlett; and over against theyme divers noblemen's sonnes and knights of accompt.

On the floore the Lords sate on formes, and the Judges in the middest on woolsacks, as in the Parliament.

Towards the midle of the rowme the Speaker's chare was sett, and the clerk's seate and table before theym; and about hym, and on bothe sides on scaffolds, sate the knights and burgesses of the Howse of Parliament.

In the Queen's Corte at the lower end were the yong Duke, the lady Elizabeth, and divers other ladies of the Corte.

The Prince came forth of the Cort of Wards, where he and the Knights of the Bathe, being 24, did attyre theymselves.

Theise knights came first into the Howse by coples, being attyred in purple satin gownes bound with silver lace, and made a lane throughe which the rest did passe.

After theyme came the Earle of Suffolke and the Earle of Worcester as Constable and Earle Marshall.

After came the herolds, and Garter came last of theyme with the Prince's patent in his hand.

Then came the Earle of Suffolk carring the robes, and after hym the Earle of Huntington carring the trayne of the robes.

After theyme the Earle of Rutland with a ringe of gold.

After hym the Earle of Derby with a golden rodd.

After hym the Earle of Pembroke with a sworde.

After hym the Earle of Shrewsbury with a crowne.

And then came the Prince led by the Lord Privy Seale and Lord Admirall, who was Lorde Stuard of England.

At theyre coming to the cheare of estate the Prince kneeled downe before the King; and then the herold delivered the patent to the Lord Treasurer, who red it openly, and as he came to the clauses mencioning the parts of the investiture, the King receaved theyme and putt theyme upon the Prince, and therafter rising up kyssed hym, and tooke hym by the hand and sett hym on a cheere; and then the patent was delivered to the clerke of the Parliament to be enrolled, and after the Prince taking it carried it forthe in his hand.

In the Prynce's patent I observed 2 errors. 1. That it was *Teste meipso*. Whearas it ought to have bene *Hiis testibus &c.* A.B., and in that it was reformed. 2. That he had granted unto hym *Principatum et Comitatum Cestriæ, et gubernacionem eorundem Principatûs et Comitatûs &c.;*[a] not meaning *Comitatus Civitatis Cestriæ*, which was made a county by it self since any Prince was created.

[The House took the oath of allegiance on Tuesday, June 5, and the following days.]

On Tuesday and Wensday after it was moved and agreed in the

[a] This must have been quoted from memory, as the words do not occur in this form in the patent itself. (Rymer, xvi. 688.)

Howse that all of us should take the oathe of allegiance as the Lords[a] had done. And when 20 had sworne, then one made a question concerning that parte of the oathe which saies that he holds that othe by full authority to be lawfully ministred unto hym: for, sayes he, by the statute the oathe is apoynted to be ministred by bishops and justices of peace, and that is in cases where they finde cause of suspicion. But in the Howse the clerke read the oathe and the parties repeated it after hym. So that none ministred it unto hym.

But to this was answered that this was a voluntary protestacion, and not exacted of us according to the statute; and, secondly, it may be understood that it is lawfully ministred; that is, that it is lawfully, and by good and, full authority, apoynted and ordayned to be taken.

And in this maner, and with this caution and explanacion, the rest tooke it; and in particuler Sir Herbart Croft,[b] who, before he tooke, delivered openly in what maner he would take it, for that he would use no mentall or secret reservacion.

Also he sayd that where the oathe is that he beleeveth that the Poope cannot authorise any princes to invade this realme, he saied he doth not knowe what power the Pope hathe over his tributary princes that hold of hym, and therefore he understoode that parte of the oathe of such princes as be not feudatory princes to the Pope, or hold of hym, &c.

[Message from the Lords, Friday, June 8.]

A message[c] sent from the Lords wishing us to goe roundly about our buisnes; and to use no more delayes then of necessity wee must.

To this message greate exception was taken, but no answer retorned.

[Another message from the Lords, Monday, June 11.]

On Monday the 11th of June there came a message from the

[a] The Lords of the Council. The Upper House did not take the oath till the 7th.

[b] Sir Herbert Croft, Member for Herefordshire.

[c] C. J. i. 436.

Lords, Justice Crooke and others, desyring a meeting of bothe Howses in the Paynted Chamber in the afternoone that day, to impart unto us some things which they had receaved from His Majestie.

This meeting was yealded unto. But, afterwards, exception was taken by Sir Edward Mountague[a] first, and after by others, that it was unusuall and derogatory from the ancient liberties of the Howse to receave a message from His Majesty by the higher Howse (as thoe they were interposed betweene the King and his subjects). Whearupon a Comittee was chosen to consider what was fittest to be done, whoe shortly after resolved that one of our Howse who was apoynted, viz. Mr. Solicitor, should, before the Lords spake, desyre to say something unto the Lords on the behalf of the Howse; and that then he should say that which the Howse directed hym, which he did with some amplification. The substance whearof was—

They had receaved a message from theyre Lordships desyring a meeting, whearunto they had yealded. But that whether it were in the expressing of it, or in the conceaving of it, or bothe, there were some mistakes which had left an impression in the myndes of the hearers which did begett this resolution, which, by theyre comandment, he was to intimate to theyre Lordships. Which was this: that, if theyre Lordships did desyre this meeting upon intent onely to communicate unto theyme theyre owne conceipts on anythinge which they had receaved from his Majesty, they were come hither with all willing readines to receve it; but, that if theyre Lordships were imployed hearin as messengers onely to the Howse of Comons from his Majesty, who is like the sonne which shynes directly as well upon the lowest valeys as upon the highest hills, then they were to signify to theyre Lordships that this course was contrary to the ancient orders, liberties, priviledges, and graces of the Howse. And, therefore, wee are to intertayne it as it shall please the Howse to direct us.

[a] Member for Northamptonshire. He was the eldest brother of Sir Henry, the Recorder of London, and was created in 1621 Lord Montague of Boughton.

To this the Lord Treasurer answered,[a] that out of a desyre to preserve the unity of bothe Howses, with reservacion of what might be sayd if they were otherwise mynded, he would give them [satisfaction][b] that they came theither to advise with us as members of one bodie, and to comunicate and impart unto us what they had receaved from his Majesty, in respect they sitt neerer the sterne of goverment, and therefore are made acquainted first with those things that are *Arcana imperii, &c.*

He sayd the ground of this speache proceeded from the King's majesty, who, finding us to proceed slowely in our consultacions, was willing to offer a fayre outlett unto us. And, therefore, as it is a rule in philosophy (and recorded by a philosopher who likewise was a great statesman), that *in mobilibus velocitas sequitur proportionem virtutis moventis*, so the King, being *primum mobile* hearin, he did not doubt but he would carrie about the rest of the spheres with expedicion.

He sayd that in man's mynde theyre were 2 principall powers and faculties, viz. the understanding and the will. The object of the first is *verum et falsum*, and of the second *bonum et malum.*

For the first, sayd he, if any man yet do not [understand] the truth of that which hath bene already delivered concerning the King's estate and wants, *non est opus hujus diei.* It is not, sayd he, the worke of this daie, neither am I the man that can better imprinte it. And therefore the scope and end of my speach, sayd he (at this tyme), shalbe to styrre up and move the other faculty of the mynde which hathe power over the affections.

The somme was to perswade us to supplie the King's wants by subsidies; and that in 3 circumstancs: 1, in tyme; 2, in severance from other buisnes of the Parliament; and 3, in proportion.

And that there should be a suspension of the support and of the grievances untill our next meeting in October next. But the contract to continue in treaty still, &c.

[a] Reported Wednesday, June 13. C. J. i. 437.

[b] MS. "give them satisfy them."

1. The reasons he used in the meane tyme to yealde some supplie were, first, the Prince's creation which hathe bene performed with greatnes and magnificence, neither was he perswaded that any of us would have wished that in a matter of so greate comforte wee should have begunne a president of frugality.

2. The consequencs of the French King's deathe. For now the yong King being sent unto to know whither he would proceed with the army which his father had made in a readines for the warre of Cleve, his answer now is that he is under the regency of his mother, and that he is not yet resolved what to doe; which alteracion dothe threaten a generall alteracion in Christendome, &c. For the late King was in respect of his greatnes the counterpoyse of all Christendome, and haply that might be a cause that he was not thought fit to dwell long upon the earth. But which way the ballance will now declyne is uncertayne, considering the danger of the papists' doctrine and practise, who have made and devised a new heaven for the murderers of princes, which, sayd hee, in what place it stands I knowe not, but suer I am it is not in Abraham's bosome. He compared it to the paradyse which Mahomett grossly devised for such as were wicked and impious, or (as Sir Francis Bacon conceaved) for the Assassins, which were a sort of people that did devote theymselves to the murdering of princes, by one of whom our King Edward the first was wounded. He sayd also that this accident had drawne with it a present increase of the King's chardge, for on Saturday last 6,000 li. was delivered out of the Receipte towards the warre of Cleves, and order given for 30,000 li. more.

And therefore he wished that as that day was the longest day in the yeare (St. Barnabas' day), when the sonne retornes and alters his course, so we might alter our corse, having now spent almoste 5 moneths in matters impertinent, and extravagant discourses, whearof some square, some long, some short, but all circular, for wee are there almost where wee first begunne.

Concerning the King's demande of 240,000 li. per ann. he did confesse that it was a greate demande. But that yet it was no

miracle thoe it have no president. For a new reason requires a new president, and the first president had no president. But he sayd that, as his demande was greate, so he doubted not but (and so much His Majesty comanded hym to signify unto us,) that he would make a greate fall. But he sayd that for the matter of support, which seems not to be understood of many, as thoe the worde were not to be found in any dictionary, his pleasure was to suspend it for a tyme, and in the mean tyme to informe our selves of the state of the contry.

For the poynt of supplie, he wisht wee would give His Majesty so much as might disengage himself, and pay his debts; and that something might remayn *in deposito* (in what place or whose hands we pleased) *tanquam thesaurus sacer*, as a dry and standing stock not to be toucht but upon urgent necessitie.

This if wee refuse, His Majesty would have just cause to complayne of this greate senate, for in his conceipt he sayd that no good and well affected subject would deny to supplie the King's necessities in so extreme necessity.

He sayd he sawe many clouds abroade, and therefore wisdome it is to take a cloake in the meane tyme.

Hee added further that His Majesty had presently given order of ease to the merchant to his owne losse of 20,000 li. per ann. viz.—

1. He had granted theyme five in the hundred in all outports, as in London.

2. He had taken away the impositions of divers merchandise, as dele boards, clapborde, flax, yron, reysins, and of all manufactures of the kingdom, except bayes and pewter.

3. And lastly His Majesty had promised that he would impose no more before our next meeting.

And (which is more) he had given us leve to dispute of his power to impose *in radice*.

In conclusion he sayd: What wilbe the fruyte of my speeche I knowe not. But (sayd his lordship) if any sowe tayres to hinder the fruyte of it I can be but sorie, but I hope you will take such a corse

as His Majesty shall live no longer in anxiety and yourselves in danger.

[Debate upon the report of Salisbury's speech, Wednesday, June 13, and Thursday, June 14.]

The speeche being reported on Wensday, 13 June.

Mr. Dammat [a] stoode up and moved in generall that wee would supplie the King's wants.

Mr. Humphrey May [b] followed, and wished that wee would give 2 subsidies and 2 fifteens.

Sir Tho. Beomont,[c] he moved in generall that it were more for the King's saffty and honor, for our owne credits and reputacions, and for the satisfaction of our contry, to deferre a supplie till wee had an answer of our grevances, and had concluded the contracts for the Tenures.

Sir Francis Hastings [d] was of the same opinion, taxing Mr. May as too bitter against those that were not of his opinion.

Mr. Tay was of the same mynde, and sayd, that having sate so long, if wee should now retorne into our contry with nothing for the good of the comon wealth, they would say that [we have] bene all this while like children in ketching butterflies: and with theise agreed Sir Jo. Sammes,[e] Sir Herb. Crofts, Sir W. Cope,[f] Mr. Hoskyns, Mr. Martyn,[g] and Mr. James.[h]

On the other side spake for 2 subsidies, Sir Tho. Lowe,[i] Sir Geo. Cary,[k] Sir Hen. Montague, and Sir Geo. More, but he wished also that wee might make our greivances ready, and present theyme to His Majesty; and he doubted not but he would give us an answer to our contentment.

[a] Member for Yarmouth.
[b] Member for Beer Alston.
[c] Sir Thomas Beaumont, Member for Leicestershire.
[d] Member for Somersetshire.
[e] Not mentioned in the list. Probably returned for a vacancy since the meeting of Parliament.
[f] Sir William Cope, Member for Banbury.
[g] Henry Martin, Member for Wotton Basset.
[h] Member for Newport, Isle of Wight.
[i] Member for the city of London.
[k] Sir George Carew, Member for Hastings.

He sayd that *conscientia* was *frenum ante peccatum*, and *flagrum post peccatum;* and *omne sub regno.*

Sir Wm. Cope answered Sir Tho. Lowe, and wisht that he would perswade his brethren to lend the King money gratis, rather then we should now give a subsidy to pay the interest to theyme till Michaelmas next: which speech was much applauded.

In the end Sir Julius Cæsar, finding the Howse bent against subsidies, he said he was comanded by His Majesty to signify unto theyme that he was willing to receave theyre greevances presently, and to give an answer to the content of any reasonable man; and that wee might dispute of his power to impose, and therefore he wished that wee would now upon the first motion give 2 subsidies, whearby His Majesty might be the better incouraged to extend his grace and favor towards us.

Some motion was concerning the King's pardon: but some sayd that pardons were cutt so short as no man almoste could receave benefit by theyme.

And Mr. Martyn sayd that he would rather yelde to 3 subsidies, then that the King should grant a pardon, which haply might extend to some malefacter now lately called in question; viz. Procter, &c.

But the Howse, distasting Mr. Chancelor's motion, agreed to defer the debate till the morning.

The next day after being 14 Junii, Mr. Chancelor brought another message from His Majesty, signifying unto us that His Majesty was not onely willing to receave our grievances, but also to answer theyme before our departure. And also that after he had receaved our greavances (whearby it might appear unto hym what yearly proffitt wee desyred to take from hym,) he would then (before this recesse also) pitche his lowest rate upon the Tenures and other the things offred to be contracted for, not doubting but in the meane tyme wee would agree upon some supplie to be given unto hym.

Whearupon Sir Wm. Strowd[a] moved that wee might presently

[a] Sir William Strode, Member for Plympton.

give as a pledge and earnest penie of our affections one entire subsidy and 2 fifteens; unto which divers assented, but the moste denyed to give any before wee had receaved an answer of our greevances. So that the matter was debated *pro et contra* in the Howse from nyne of the clock till after one. And in the end the moste thought it fitt that no question should be made that day concerning any subsidy at all. And so the question being putt whether any question should be putt, the negative voyces prevayled.

Some denyed one subsidy, saying that it would not serve the King's turne; and that if it had been moved he would have yealded to it; but if one onely should be granted it would be much to the King's prejudice to prevent the bounty of the subjects, who will be willing to give more when they have receaved an answer of theyre greevances. YELVERTON.[a]

SIR JO. SAVELL[b] wisht that the King were truly informed of the poore estate of his subjects, and that wee would remember what the Scottish men told us when they came, viz. We have brought you the best Kinge in the world, if you doe not marre hym.

MR. WENTWORTH sayd that they were in an error that used the argument of the deathe of the Frenche kinge to drawe money from the subjects, for (sayd hee) wee all knowe that the King of France died not for want of money. His cofers were full, and he had an army royall in the feild. But he wanted grace and the good will of his subjects. Tho he would not submit his fortunes to Rome, yet he had submitted his soule to Rome; and hence wisht that our King would be more carefull to banish Prelatry, to punish the Jesuits and priests, and to cherish his subjects; for without theise things supplie nor support are to no purpose.

SIR RO. COTTON[c] vouched a president in 5 H. 4, *in rotul' parliamentar'*. That at that tyme the kinge demanded supplie; and on the other syde the subjects demanded redresse of greevances, and

[a] Henry Yelverton, member for Northampton, Justice of the Common Pleas 1625.
[b] Sir John Savile, member for Yorkshire.
[c] Member for Huntingdonshire.

then the question was whether should precede. And in the end it was concluded that the subjects should first give.

[On Saturday, June 16, another message was brought from the King.]

15 Junii. On Saturday, being the day after,[a] Mr. Chancelor brought another message from His Majesty to this effect: that he had cause to thinke it strange that so meane a matter as one subsidy and 2 fifteens should be so much controverted amongst us; especially considering his former offer and promise the day before to receave and answer our greevances. And that it was never his meaning but to have given us such an answer unto theym as might have satisfied any reasonable man, after such tyme as the world had once seene that the fruyts of our affections had overranne our desyres. And thoe he might be justly offended with some who were somewhat too bold with his goverment, fetching arguments from former tymes not to be compared to theise, yet he hoped it sufficient to forewarne theyme to forbeare the like hearafter, lest he have just cause to doubt of theyre intentions.

And he is now pleased not to misjudge the proceedings of the House in not giving hym a subsidy; and is indifferent whether any other motion be made concerning any supplie, till wee shall receave a full answer of our greevances. At what tyme if our hearts and words which wee have already spoake doe agree together (as his dothe) then hee doth assure hymself of a happy issue of this Parliament, both for His Majesty and the Comonwealth.

[The records from the Exchequer and the Tower having been brought in and read, the debate on the right to set Impositions was opened on Saturday, June 23, and continued during several days.]

Question. Whether the King have power to sett Impositions upon merchandises without assent of Parliament.

FULLER. 2 positions.

1. The lawes of England are buylt upon such a foundacion, as no

[a] This is a mistake. Saturday was not the 15th, nor was it the day after that on which the preceding debate took place.

act of the King without the subject, nor no act of the subject without the King, can alter theyme.

2. Parte of the law of England is that the King cannot impose without assent of Parliament, and therefore not alterable but in Parliament.

1. Proofs of the first, 11 H. 4, f. 53. The bull of the Pope or grant of the King cannot reserve to hym his land that . . . .[a]

49 E. 3. 39 Ass. 8. The King by his patents cannot change the custome of borough English, &c.

37 H. 8. The King cannot grant to any corporation to have an assigne of freshe force.

36 H. 8. Denisen. The King cannot make one borne beyonde the sea inheritable in Englande.

2. Parcelle of the law of England that the King cannot take from the subject his goods, nor his trade.

Act 11 H. 4, et 13 H. 4,[b] office of Alnage granted adjudged voyd grant to charge the subject to pay a fee. *Extremitas Justiciæ est injuriam pati.*

22 E. 3, Rot. 31. The like office granted adjudged voyd.

Eliz. Office of seaking sheepe skyns to Darcy adjudged voyd.

42 Ass. plac. Comission [to] Agard, &c. voyd.

Act 14 E. 3, stat. 2, cap. 1, recytes the grant of subsidies; and that the subject shall not be charged to the ayd after that.

1 R. 3. The like Act of Parliament: that the subject shall not be charged [on] his goods without Parliament.[c]

Freedome of trade. The King cannot restrayne a man to use his trade.

Deut. 24. Not to take the milstone to pawne, for that is his living.

14 H. 8. Thow shalt not distrayne the milstone.

22 E. 4. The anvill—horse—garment.

[a] These words are illegible. The question was whether a patent from the King could preserve the lands of a man under outlawry.

[b] To this there is a marginal note, "13 H. 4, num. 18, in turr?"

[c] The Act 1 Ric. III. cap. 2, forbids raising benevolences, and only by implication lays down the principle which Fuller deduced from it.

9 H. 4. Bond voyd not to use his trade, &c.

As unlawful as to say,—You shall not live by labour,—as to say you shall not use your trade which is your meanes of living.

The strength of England consists in the merchants.

Stat. 14 E. 3, cap. 2, recytes the statute of *magna*, &c., and enables all to trade, paying the customes due, *i. e.* then due, as is proved in the next stat. 15 E. 3, paying the customes of old tyme due. Paying the rents due and accustomed, &c., extends to rents then *in esse*.

Rec. 16 H. 3. All merchants to come in *salve et secure*, paying the ancient customs.

10 E. 1, recites the ancient customs of wools, woolfells, and lether.

What is more was [. . . . ?] unjust.

14 E. 3, licence from the King to trade, paying 40s. a sack, for that the restraynt was by Act of Parliament.[a]

13 E. 3.[b] Complaynt of Impositions in Parliament, and repealed for that they were without Parliament, &c.

25 E. 3 et
36 E. 3 et
38 E. 3 et
45 E. 3.[c]
} The King recalled Impositions, for that they were not granted by Parliament.

21 E. 3, num. 11.[d] The like answer from the King upon the like complaynts. It was never answered. It is the King's prerogative, and he may impose, &c.

46 E. 3. Commons grant 6d. *de qual. libr. merchandis.* for two years.[e] At the end of the term the King did not.

Statutes of tonnage and pondage granted still by Parliament, which were needlesse if the King might impose of hymself.

[a] 11 E. III. cap. 1.

[b] Rolls of Parl. ii. 104.

[c] Rolls of Parl. ii. 229, 271, 287, 308.

[d] Rolls of Parl. ii. 166.

[e] This is not quite correct; the grant 46 E. 3, was made for one year by the citizens and burgesses only. It was renewed by the whole Parliament for two years 47 E. 3. (Rolls of Parl. ii. 310, 317.)

If a judgment be against this, yet it is reversible by Parliament; so that it is excellent to be observed that, as the lawes begynne, so they allways end in Parliament.

38 E. 3, cap. 1, Stat. The King's answer. Our soveraigne Lorde the King, &c.[a]

He wisheth that the King would make the like answer to us, that the King might governe, and wee obay, according to the lawe; and with this sweet harmony the comon wealth must needs flourish.

The King is subject to another King, and wee all pray *veniat regnum tuum*. Now the lawe of God is the Decalogue, which is that subjects as well as kings should enjoy theyre owne; and therefore, if anythinge can be shewed on the King's parte to mayntayne the judgment against Bate, it were good they would shew it. WENTWORTH.

A doubt moved. Impositions upon forrayne comodities must rest in the Kinge, or otherwise by Parliament. Now, if a forrayne prince shall impose upon our comodities, the readiest and best way for us is to impose upon the forraygne prince's comodities; and if wee shall stay for a Parliament, wee shall suffer much wrong in the meane tyme. CARLETON.[b]

Answer. In 26 H. 6, the Duke of Burgondy did impose upon our comodities, and after in 27 H. 6, cap. 1, an Act of Parliament was made that none of the Duke of Burgondies goods should be imported; and so 2 Acts after, 28 H. 6, 1 et 4 E. 4, cap. 5.[c] FULLER.

The Venetians, temp. H. 7, imposed 4 ducats upon English comodities. An Act[d] was presently made that all merchants strangers should pay 18s. per butt upon all they should bring in, while the other imposts contynued.[e] WHITLOCKE.

The question is, whether the Kinge can impose by lawe, so that the object is the King's power. MONTAGUE.[f]

[a] That Magna Charta be kept.

[b] Dudley Carleton, member for St. Mawes; created in 1628 Viscount Dorchester.

[c] There is a marginal reference to "Mr. Rast[all] merchandise 33, 35, 37."

[d] 7 Hen. VII. cap. 7.

[e] Marginal note, "Vide Rast. wynes, fol. 535, b. 16."

[f] This must be Sir Henry.

1. Yealde to all the cases put by Fuller, but sayth they come not this purpose.

2. The King canot take any man's trade away.

3. Lymitacions mak impositions unlawfull.

Tyme.

Quality.

Quantity.

i. In a dearth of corne, if the Kinge will lay an imposition upon corne, it is not lawfull.

ii. If upon necessary comodities it be imoderate it is unlawfull.

iii. If in matters of superfluity or delicacy the King will impose more upon them then the gaynes come to, it is unlawfull.

Legally the King may impose with theis limitacions:—

Subsidy, onely by Parliament—a voluntary.

Tax or tallage onely by Parliament.

Custome or imposition proceed from a regall power, and matter of inheritance in the King.

The Imposition is not well so called, for it is but the increase of a Custome.

Now Custome is the inheritance of the Crowne, the fruyts of comerce with strangers.

It is due as it ariseth out of comerce mayntayned by the Kinge, and this is his reward.

Fynes upon wrytts due to the King by lawe, for he mayntaynes his Corts and Clerks, &c.

So upon the same grounds prescriptions are good to have murage, pontage, &c. in respect of the benefite receaved by theyme.

So the King mayntayneth his ports, his embassadors, and for this he hathe his custome.

But for the quantity: if the charge exceedes the benefite it is voyd. So of prescriptions, if greater tolle or pontage be given then the benefite which the subject receaves doth amount unto.

That is the reason of the case 11 H. 4: the subject receaved no benefit by the office.

But otherwise, if a benefite be receaved: Chamberlain of London's case. In imposition of 1d. per peece of cloth adjudged good: Jeffrey's case. Prescription held good that the land should be charged with 2 d. an acre for the reparacion of the Church.[a]

So the subject receaves protection, and the benefit of trade, and therefore the Kinge may lawfully impose in a reasonable proportion.

Bracton. All kingdoms supported by 2 things, Government, Revenue.

Take either of theise away, the kingdome falls to ruyn.

Staunforde. No crowne in the worlde, but the greatest porcion of his revenue is his prerogative.

But *salus populi suprema lex*, and therefore they must be reasonable and moderate.

Acts of Parliament 21 E. 3.[b] The booke saith that there was a Parliament in the tyme of the Conqueror.

A grant to the King of a new custome is [proof that] custome was ancient.

No Act of Parliament from H. 3 untill 1 Jac. sett a rule to the King that he cannot impose.

He confessed that upon the 3 staple comodities, the King could not impose; but, for all other comodities, the King was at liberty without restraynte. If any statute mencion other merchandises, [it is] of that kynde, wools, woolfells, and leather.

A saving in every act of the King's prerogative; and therefore in the cases of the impositions of Allom and Currants, the custome was adjudged to be lawfull, being reasonable.

Theise lymitacions are injoyned to all men's actions, which are to be done in tyme convenient, &c. All the Acts of Parliament paying the due customes; that is, not all such customes as the Kinge think fitt. WENTWORTH.

If it were any parte of the prerogative, it would have bene expressed in *Prerogativa Regis*, or in some other lawe.

[a] Marginal note, "Pro bono publico."

[b] Rolls of Parl. ii. 168 contain a petition in which there is mention of "une novelle custume" as a matter of complaint, but they do not mention any grant in this year.

Fortescue's opinion in his booke.

Act 12 H. 7.[a] A complaynt by the merchants to the discreet Comons in the House of Parliament; whearas Merchants Adventurers are to trade without any exaction or imposition.

JONES.[b] The Judges may judge the pontage and murage whither they be reasonable. But the Judges cannot controll the impositions.

Ob. The King may restrayne the merchants.

Sol. The King cannot restrayne the merchants as now the law is, 15 E. 3.[c] The sea shall be open.

Ob. Records 2 E. 1, et 10 E. 3, 17 H. 6.

[*Sol.*] The 2 first were before 15 et 16 E. 3. The third is in tyme of warre.

Ob. The Kinge is Lord of the ports.

Sol. The soyle is the Lord's. He hath but a liberty of passage for hymselfe and his subjects.

Private men have had ports—Eudo le Zouch.

That he may restrayne for the good of the Comonwealth, and dispence: but to take a some of money for a dispensation he cannot.

Ob. Inconvenient, if forrayne princes doe impose, if our King may not.

Sol. He may stay for a Parliament, which is at his pleasure.

Ob. Divers impositions layd by the merchants without Parliament, and they are no corporation. So it is the imposition of the King, and not the grant of the merchants.

Sol. Usque 37 E. 3.[d] The merchants did grant, but then when they saw the mischiefe.

That lawe takes away all impositions granted by the merchants.

Presidents:—

1. In dispensation of a penall law of restraynt made 11 E. 3 not materiall.
2. 26 E. 1. Imposition on wynes upon strangers: as Duke of Aquitayne.

[a] Cap. 6.
[b] William Jones, member for Beaumaris.
[c] Stat. 2, cap. 2.
[d] Probably this should be 36 Edward III. cap. 22.

3. 24 E. 3. Increase of the customes, and a° 25 E. 3 taken away.

4. 7 E. 3. Subsidy granted to the King.[a] Repealed after a tyme with protestation.

Statutes:—

6 E. 3.[b] 2 not printed. Prayer that he would take away all impositions. I will doe as my Ancestors have done. 30 E. 3. Upon the like petition, the King's answer was that he would be advised.

23 H. 6, cap. 18.[c] Liberty of passage.

14 H. 8.[d] Borne beyond sea pay all customes, as an alien may doe. If he had a power by the comon law, he is restrayned by the Statute.

Magna Charta 9 H. 3, *recta et antiqua consuetudo*. 3 E. 1, the custom layd down in certayn.[e]

13 E. 1. No aydes to be taken: extends to impositions: saving prerogative to . . . . (?)

27 E. 1. No other customes to be payd.

14 E. 3, and 2 other statutes for wools, &c.

15 E. 3, *et* 39 E. 3, merchants may passe with all comodities paying all customes due and accustomed.

5 E. 2. Commission *ad Archepiscopum*—Ordinance—Impositions contrary to Magna Charta.

23 *et* 29 *et* 43 [E. 3]. Subsidies granted to the King upon condition that no impositions be sett.

25 E. 3. No mise nor charge be sett upon the Commonwealth without the Parliament.

13 H. 4. Stat. de Tonnage et pondage.

20 E. 3. Lyonel Duke of Clarence did impose, being Protector,—taken away.[f]

[a] *i.e.* by the merchants. Complained of in Parliament 8 Edw. III., and repealed in that year. (Hale on the Customs, in Hargrave's Tracts, i. 163.)

[b] This and the following petitions are not noticed in the printed Rolls of Parliament.

[c] Cap. 17.

[d] Cap. 4 ordains that persons born in England becoming subjects of foreign princes shall pay as aliens.

[e] Hargrave's Tracts, i. 146.

[f] Rolls of Parliament, ii. 166.

50 E. 3 (7.) Lord Latymer, Lyons, et Peche.[a]

MR. SOLICITOR. Bacon. 1. Save tyme, in omitting impertinent questions. 2. Give light,—to disgest his proofs.

Single the question by freeing the same from other things.

1. Not the question whither the King can alter the law, but whether he may impose by lawe.

2. The King cannot impose upon his subjects within the land: but allways difference *inter portorium et tributum.*

3. He cannot impose if the cariage be from port to port: portage not comerce.

4. The question is not of *bonum et malum*, but of *verum et falsum.* Inconveniency not in question.

5. In wools, woolfells, and lether, the King's hand bound, but in all other is free.

Disgest his proofs.

He will move nothing but which not move hym.

[1]. An universal negative position. It appeareth not by any record that any imposition sett by the King's absolute power was ever adjudged to be voyd.

Bates the first that pleded that plea.

The King's acts may greeve the subject when they are lawfull, and when they [are] unlawful.

If unlawfull, determined in Corts of Justice.

If lawfull but greevous, then in Parliament: this is the Porte way that hath bene held in that case.

The Judges have handled as great matters. 13 H. 4, Alnage. 22 Ass. Comission overthrowne. El. Comission *secundum sanam discretionem* overthrowne by the Judges.

So synce there is *altum silentium* in the King's Corts and allways it was allways redressed in Parliament, it moves me much, and should move you to a *Non liquet.*

2. Consideracion of the power in merchants to grante impositions.

[a] Rolls of Parliament, iii. 323, 324, 328.

They cannot grant because the Kinge hath power to impose. He is *principale agens*.

Theyre power proved. *Charta mercatoria.* 3rd. Now called Stranger Customes or Doble Custom, which the strangers yet pay over the tonage and pondage. So the grant of merchants standeth in force at this day by the King's power to impose.

17 E. 3. Comons complayned; no reason that the grant of the merchants should charge the merchants.

The King's answer, that it could not be prejudiciall, because the prices of wools were sett in certaynty.

3. Consideration of the first comencement of customes.

1 El. Dyer held that there were customes at the comon lawe. The particuler is untrue of wools, 3 E. 1. But that record terms the demy marke a novell custome.

9 H. 3. Evill tolls beyond the ancient customes; so theyre were customes before.

But not by Act of Parliament, and therefore by lymitacion [a] of the King.

4. The maner of mitigations and abolishing of excessive tolles and customes from tyme to tyme.

i. Petition. No petition ever preferred for any imposition upon forrayne merchandise, except in 5 E. 2. The ordinance of the lords called *Carta mercatoria*, and the demy mark in question. And this ordinance was damned in 1 E. 3, and recites *Carta mercatoria*.

ii. Petitions divers tymes to take away Impositions sett by Parliament, which were lawfull. So the petitions are of no force.

The King's Answers.

If they had bene against law, his answer should have bene simple and categoricall. But his answer is divers.

17 E. 1; 38 E. 1. Petition to put downe all impositions not reasonable. 11 E. 3 *et* 14 E. 3. He grants in parte, and holds up in parte. 47 E. 3. He grants for a tyme. He hathe taken the

[a] Query, "imposition."

ballance in his hands, and moderates temperatures and positions. But *actus legitimus non recipit conditiones.*

Objections.

1. Use to make grants in Parliament, which had bene needlesse if the Kinge might doe it of hymself.

2. Statutes of Tonnage and Pondage, upon condition he shall not impose.

Answer. [1.] It is not strange to doe that in Parliament which hathe perfection in poynt of lawe it self.

They take recognition of theyre titles to the Crowne in Parliament.

i. They were granted in Parliament because they would not be after importuned to change.

ii. To prevent concealments of customs, and give forfeitures to the King. The maner of levying apoynted by Parliament.

iii. Invoyce by oath, which could not be but by Parliament.

So for theise reasons they were by Parliament.

2. Statutes of Tonnage and Pondage. It had bene easy to have sayd that this was granted for that the King should not impose.

Another consideracion of the grant garding the seas. Yet 6 R. 2[a] *et* 13 H. 4, and 1 H. 5.[b] Theise statutes mencioned condicions. The new statute is by petition. That the merchants may be well intreated.

Condicion that he shall not alien, implies that before he might alien.

So the petition is that the merchants might trade without oppression or excessive customes.

Those Statutes of Tonnage and Pondage are cumulative, not privative. A grant of pondage upon denisens and aliens. If that statute did stynt the customes, the 3d. per libr. shold not be payd by aliens.

[a] Not mentioned in the Rolls of Parl. but referred to iii. 146.

[b] Rolls of Parl. iii. 648, and iv. 6.

Ob. Intermission of imposing by prerogative *a temp. E.* 3 *usque tempus Mariæ.*[a]

Sol. 104, Contynuance temp. E. 1, E. 2. *et* E 3.

Synce Queene Maries tyme Besydes they have antiquity and present possession. *Extrema obruunt media.*[b]

Ob. No mention of his power in *Prerogativa Regis*, Bracton, Bryton, or other authors.

Sol. Case de mynes. The King hath many prerogatives not mencioned in that statute.

Jus { *publicum*:—frequent in wryters.
Imperii:—rare to be found.

Ob. An aspersion drawne from the proceedings against the Lord Latimer.

Sol. He ransackt the people; tooke intrest of the King for his owne mony. They did this of theyre owne authority: and no sentence against Lyons till the King had disavowed hym.

Ob. The King's power is restrayned by Acts of Parliament.

Sol. Those statutes of 2 natures:

1. That the King shall not impose.
2. The second sorte make open trade.

Those that be expresly restrictive:—Magna Charta, 25 Ed. 1.[c] 1. The male tolle of wools of 40s. per pack and such other should be no more taken, but the 6th chapter extends to taxes and tallages. Onely within land.

Wool, or such things, *i.e.* woolfells and lether, and no other things protected by 14 E. 3, cap. 21, made upon a petition which was made of 5 things: wools, fells, lether, leade, tyn.

The Kinge grants mitigacion for the 3—wool, fells, and lether; but for leade and tynne he would not heere of it.

[a] Marginal note, "All by statutes."

[b] Here the speech ends in all copies hitherto known. Was the remainder suppressed by Bacon intentionally? He may have been unwilling to repeat that part of his argument which relates to the statutes after Hakewill's masterly refutation.

[c] Confirmatio Chartarum.

So 45 E. 3, 4, *et* 11 R. 2, cap. 9. The Kinge byndes his power to impose onely upon those three comodities. So these statutes applie the words "such things" to those three things.

Statutes of free trade.

The statutes of free trade make nothing. 15 E. 3,[a] cap. 5, says there shall be free trade; but that is according to the statute of 14 E. 3,[b] cap. 2; and the words of that lawe was, payinge the subsidies and customes and other reasonable profits. Reasonable, *i.e.* not certayne, but arbitrary and uncertayne; which must needs be meant of impositions.

Generall words.

Many authorities that kings shall not be bound by generall words. Samson not to be bound by cobwebs but by cordes. Lord Barkley's case: the King bound to give an addition because inditement is named.

9 E. 3,[c] *et* 25 E. 3,[d] 22 R. 2,[e] H. 4:[f] all statutes of open trade directely levyed to the intrusions of corporacions; not to be extended to the King's power, for that were *aliud agere* then the lawmakers intended.

Ob. The Kinge may not impose but upon a restraynt by Parliament.

Sol. Then it followes, that, if the King have power to restrayne without Act of Parliament, he may impose during the restraynt. And that he may restrayne proved by the 4 mencioned by M[r] Jones.

Imposition of wynes during a restraynt by Parliament. No judgment to overthrow the King's power, but on the other side.

[a] Stat. 3.
[b] Stat. 2; but see also Stat. 1, cap. 21.
[c] Stat. 1, cap. 1.
[d] Stat. 3, cap. 2.
[e] Probably 2 Rich. II. stat. 1, cap. 1, which supports Bacon's argument.
[f] Perhaps 1 Hen. IV. cap. 17.

[I.] Eliz. The imposition of cloth held good because it succeeded wool. But the judgment makes no mencion of that reason. But theyre reason was because the King might restrayne the person. He hathe *clavis regni*.

No difference betwene the person and the goods: *corpus supra vestimentum*. Will you force hym to trade by factor?

II. A second judgment, 1 Eliz. Germyn Cyall, a Dutchman, who had a licence 1° Mary to trade, notwithstanding any restraynt or proclamation made or to be made. He pleaded his lycence, and so it was adjudged against the Queen.[a]

III. Sir Jo. Smyth's case. Imposition of allom, 3*s.* 4*d.* per kyntall. Judgment could not be given against Smyth if the imposition had not bene lawfull.

IV. Bates' case.

2 judgments by way of admittance, and 1 expressly in the poynt.

As *posteriores leges priores abrogant;* so new judgments avoyd the former. The records reverent things, but like skarcrowes.

The Common Law.

The reason for the imposition is whatsoever concernce the government of the kingdome as it hath relation to forrayne parts. The law hathe reposed a speciall confidence in the King. The law cannot provide for all occasions.

The lawe doth repose no greater confidence in the Kinge in this then in other things: pardoning of offendors, dispensing of lawes, coyne, warr.

Thoe you have no remedy by law, yet you may complayne in Parliament, as your ancestors have done, by petition. God and nature have provided a remedy. Custom like an ivy which growes and clasps upon the tree of commerce.

The King shall judge of the tyme to impose. But the measure and excesse the judgments will moderate.

[a] The following words are here erased: "But the matter was judged for the Queen."

Noted that Christe wrought no miracle touching money but once, and that was when question was of tribute money.[a]

So he wisheth that for this seapenny (for it is no landpenny), if it be due to Cæsar he[b] may have it; but, if not,[c] that wee may loose nett and labour and all.

HEDLEY.[d] This question determinable onely by the common lawe of England, for lawe of State he knowes not.

This lawe holds allwayes except in tyme of warre, and then *inter arma silent leges*. But in peace the comon law is to lymitt the prerogative of the King, because the King cannot dispence with it.

The last judgment against Bates: *Veredictum—Judicium, quasi Jurisdictum*. As the verdict so the judgment byndes betweene the same parties.

But if others will say that it was a false verdict or false judgment, punishable. But, when it comes judicially in question, every man is at liberty to speake against the verdict or judgment.

The force of the judgment or verdict rests in the evidence that induces the judgment or verdict; therefore called *argumentum artificiale*. So the reasons, not the judgments, are to be pressed.

Also matters in fact and law triable by Parliament. Attaynder of treason in Parliament. So the lawe hath bene declared in Parliament. No argument that wee cannot judge of lawe for that wee be not all lawyers, no more as to say wee cannot passe a bill of clothing for that wee are not all clothiers.

Treason declared by Parliament, 25 E. 3.

1 Question. What is the comon law of England? It is not what the Judges will, no more then say that is the truth which the Jury will.

All lawe is reason, But not all reason lawe. Yet it is a good argument, It is no reason and therefore it is no lawe.

[a] This was one of Bacon's common-places. [b] MS. "wee."

[c] *i. e.* If he has it not. We should perhaps read, "But, if not, wee may loose, &c." The note-taker evidently misapprehended the drift of the sentence.

[d] Thomas Hedley, member for Huntingdon.

Acts of Parliament reasonable, but no lawes till they be made.

Mr Solicitor sayd the Comon lawe was tried reason, the quintessence of reason.

And yet the Statutes are best tried. But the Comon lawe tryed by tyme, which is wiser then all the Judges in the land. By tyme out of mynde.

So, if you prove any thinge to be comon lawe, you must prove 2 things: to be reason, and to be custome.

The end of all lawe is the good of the comonwealth. *Salus populi suprema lex.*

2 questions: 1. Whether this have bene custome? 2. Whether it have bene reason?

Whether it be a custome; used in the King's courts tyme out of mynde.

But this poynt was never adjudged before. The King's patents or grants prove not the lawe until they be adjudged. Of this there is no contynuall custom without interruption.

2 ends putt together cannot make a custome. The later tyme synce Q. Maryes tyme 60 yeares can make no custome. And the former custome, 100 yeares temp. E. 1, 2, 3, hath bene synce interrupted by 300 or 400 yeares.

Ob. All the ports are the King's.

Sol. By the same reason he may impose upon any man that travells the higheway. The ports are the King's for the use of his subjects, so that the lords of the soyle cannot stoppe. So, in the higheway.

Thoe he may restrayne *pro bono publico.* But, if it be not for the good of the Comon wealth, without paying money, then it is not good, paying money.

Ob. It is fitt that impositions should be layd for the norishing of trade.

Sol. But the question is who shall lay theise impositions, which by [contynuance?] the Parliament hath done.

The Judges say, 1 E. 6, that theise three Customes of wools are due by the Comon lawe onely. Then other Customes are not due by the Comon lawe.

The Parliament hath now raysed theise Customes by reason of necessity and alteracion of tymes. So thoe there be necessity of alteracion yet it must be done by Parliament.

Ob. Fynes upon original wrytts by custome.

Sol. The King's cannot alter this fyne; *igitur*, not the ancient custome.

Escuage uncertayne due to the King to be assessed by Parliament onely; the Judges are not trusted with it.

Magna Charta. Every man amerced *pro falso clamore* sett *per probos et legales homines de Comitatu.*

Matters of proffit (thoe it concernes other nations) are decided by Parliament, &c.

Otherwise matters of regality, &c.

Warre and peace proclaymed by the King. It concerns the King more then all his subjects.

Coygne, no inconvenience in raysing his coygne, for comodities also rise.

Administracion of justice by Judges profitable to the King. It properly belongs to the King.

Pardon. He can pardon onely that which belongs to hymself. He cannot take away the benefite of the subject.

Mischeifs will alter the lawe. Mitton's case. The King cannot apoynt an undersherif, or gaylor, to charge the Sheriff with an escape.

If disseisor infeoff a stranger, the disseisee shall not be putt to his reall action.

Voluntas reputabitur pro facto ante 25 E. 3, which did declare treason.

The King did turne out all the lessees of his tenant dying within age. But now the law is altered for the mischeif.

He concludes with Magna Charta. The question then was for

merchants strangers. But [a] no question of English merchants. Yet the Statute is generall: all merchants.

Expectation a great adversary; and I will free myself of it as soone as I can. MR. HOSKYNS.

He will remove the impediments and arguments.

Argument 1. Custome is the King's inheritance. The King may improve his inheritance, &c.

He denies the *major in genere;* and in particular deny [in all ?].

Also he denies the *minor*, 3 E. 1, escuage 19 H. 6, 9 H. 4. *Quinzime* called the King's inheritance, and yet cannot be improved.

Divers inheritances not improvable. If a tenant be putt in a .... ? for the repayring of a comon way. It must be affayred [b] by the homage, and yet it is an inheritance.

Case of Chamberlayne of London. Charters of London to make by-lawes confirmed by act of Parliament, and so is not the King's power to impose.

Jeffrey's case proves an imposition may be made where the Comon lawe gives authority.

11 H. 4, et 18 H. 8. Generall and comon customes are but the Comon lawe of England. So, if it be proved that by the Comon lawe the King may impose, then that argument is of weight: *aliter non.*

Bacon's ob. An universall negative put by Mr Solicitor. *Ab authoritate non valet argumentum negative.* No judge ever gave judgment in the like case. The cases of cards [c] &c. was betweene subject and subject.

2. *Charta mercatorum* grants iii d. *per libr.*, but the merchants being no corporation cannot grant, and there the strength of that comes from the King's power. 1 Mar. Dy. 100, 12 H. 7, fol. 28.

Temp. Joh. Regis. The grant of the Townsmen of Newcastle of i d. per chaldron: good.

[a] Marginal note, "a fortiore."

[b] "Affeerours,—those that be appointed in court leetes, &c., upon oath to mulct such as have committed faults arbitrably punishable, and have no express penalty set down by statute." Cowell, Interpreter.

[c] Qu. Cyall, &c.? *see* p. 71.

3. The King's answer has that he would take away all impositions unreasonable; *igitur* he would not reasonable.

Stat. 27 H. 8,[a] *nules* unreasonable customes. Also reasonable is certayne. *Rationabilem dotem.*

4. The King accepts not that as a guift which is due unto hym by prerogative.

5. 25 E. 1. Ayd a general word. The Kinge not bound by generall words.

6. 14 E. 3, *et* 15 E. 3. After Michaelmas next. Ayde there named.[b]

7. The King may inhibite, *igitur* he may impose. 8 H. 6, 19; 33 H. 6, 14;[c] 11 H. 4, 2; 12 H. 4.[d] The Kinge may restrayne me from suing in one Courte; therefore he may take money to release me.

So the Lord Chancellor may injoyne me from suing: therefore he may take money to sett me at liberty.

8. Judges may judge the excesse, if the imposition be unreasonable.

Neither the Judge nor the Jury can judge what gaynes is reasonable for a merchant his aventure.

If it be excessive then voyd, say they. But it is voyd for want of power or knowledge. I should be loth to say the King's power is above his knowledge, or that he should borrowe knowledge of his subjects when he hath power of his owne.

His opinion, custom a tolle.

No good tolle, if the subject receave no benefit by it. 22 Ass. p. 63. Toll traverse justifiable.

The regal power from God, but the actuating thearof is from the people.

To have this power illimitated is contrary to reason, 11 H. 7.

5 H. 7, prescription to distrayne and to keepe till the owner redeeme theyme at the lord's will is voyd.

So an unlimited power is contrary to reason.

[a] Cap. 7.

[b] In cap. 1 of 14 Edw. III. 3, stat. 2.

[c] Perhaps cap. 5.

[d] Perhaps 11 Hen. IV. cap. 6, and 13 Hen. IV. cap. 4.

2 H. 3, fo. 42. The King cannot discharge of security of peace, —from a nusance. 6 E. 3, fol. 220, grant taste of wynes, but cannot of beefe and mutton. So the Kinge cannot doe any thinge against the comon peace or common proffit.

Customes due to the King by Comon law. Magna Charta: *antiquas et rectas consuetudines*. It was a statute in *temp.* John. Math. Paris, 247.

Temp. R. 1. Customes of Bristow mencioned, fo. 158, *temp. Lucii.* He built in Dover Castle a churche, and indowed it by the tolle or custome of the Haven. Toll in Edw. Conf. because [a] is an exemption of toll.

If toll be due whense comes the lymitation? Thoe he have custome *de jure*, yet the lymitation is *de pacto* by Parliament. 25 E. 1, *et* 14 *et* 15 E. 3, *ut supra*, &c.

3. E. 1, aydes lymited; for conscience then grew past lymitts, &c. And 25 E. 3, the safest way for the Kinge and the subjects.

President of questioning judgments in Parliament, a° 2 H, 4, num. 109. Judgment *in Scacc.* 16 *et* 17 R. 2, yet they pray in Parliament that it may be sett downe in Parliament what prisage they shall pay.

Takes the midle course. 2 extreames. HITCHAM.[b]

1. The Kinge generally cannot impose.

2. In some cases he may impose.

3. If any imposition be not for the good of the comonwealth it is not lawfull.

Good for the comonwealth; if the King receave a benefit, the comonwealth no prejudice, the merchants may gayne.

Good for the comonwealth, that is, for the major parts.

An imposition in the kingdome, in some cases, good: as, for warre, upon an invasion: to contynue during the warre. It is in case of necessity, and *necessitas* is *lex temporis*.

[a] Left blank in MS.

[b] Sir Robert Hitcham, member for Lynn.

So upon Marchandise. If it be to ballance merchandise. That the coming in of one merchandise may hynder many.

Tynne a greate comodity. An imposition now sett upon pewter upon greate ground of reason.

In that case the imposition good *pro tempore*, not perpetually. Alterable when it is found inconvenient.

So the like imposition may be sett upon wyne to avoyd excesse.

How shall wee knowe what is good for the comonwealth?

Like reason, like lawe.

The Kinge cannot grant all monopolies. But he may grante some: adjudged. So in case of impositions.

New inventions.—The monopoly of making sayles (which was not used in the kingdome before) held good. But a second patent is not good.

Humphrey's case: a patent to one to leade onely. Good, if he were the first inventor.

But after, the patent was adjuged voyd for that he was not *primus inventor;* others had it as well as he.

The triall whither the impositions be good or no, is as the goodnes of monopolies is tried. The judges and the jury, &c.

If wee stay for a Parliament to impose, the cause of the imposition may be taken away before a Parliament be called.

Necessity may require it to be done upon a soddayne. *Necessitas lex temporis.*

Customes of wools, fells, and lether are the inheritance of the Crowne, and cannot be improved.

But other impositions are not the inheritance; they are but temporary.

Escuage incertayne, to be sett downe by Parliament, apoynted by the comon lawe. But it cannot be shewed that it is parcell of the comon lawe that impositions shall be sett downe by Parliament.

No president that the impositions were taken away with a declaracion that the Kinge cannot impose by lawe.

The complaynts were upon abuse of impositions.

Ob. The interruption *a temp.* E. 3 *usque Mar.* destroyes.

The lord of a manor hath a fyne certayne for 100 yeares, and after 100 yeares uncertayne, and after 100 yeares certayne. The judge shall judge the custome according to the present usage and the first.

The cause of interruption of impositions was the statute of tonnage and pondage, which was given for the same cause, upon condition that the King shall take no imposition.

But that doth not dischardge it in lawe, being geven generally, and not in satisfaction of impositions.

The condition of that grant proves that impositions might be sett.

Ob. Acts of Parliament have taken away impositions. Magna Charta.

Sol. Use after the lawe dothe expound the lawe. After Magna Charta, and 21 E. 1, impositions sett, &c.

Proofs by authority.

By judgment *in Scaccario.*

The judgment then well given.

And yet if the same thinge were now in question, perhaps the lawe would fall out to be otherwise.

This judgment *in Scaccario* not alterable in Parliament, except by bill. Not by way of disputacion, &c. as now.

He was of another opinion. But now he is converted; and therefore he will follow the precept of St. Peter: Strive to convert thy brethren. MR. HACKWELL.[a]

The judgment voyd; because against Magna Charta: according to the statute of 25 E. 1.

1. Whither custome be due by the comon lawe.
2. Whither the lawe have reduced it to a certaynty.
3. Whither the King's power be restrayned by Acts of Parliament.

1. Custome is due by the Comon lawe. The worde imports *Con-*

[a] William Hakewill, member for St. Michael's. The speech is printed in full in the State Trials, ii. 407.

suetudo,[a] so called in Magna Charta, *usque temp.* E. 1, and after *Custuma.*

Also Stat. 51 H. 3,[b] collectors of the customes of wools accomptable *in Scaccario.*

2. Certayne and not alterable at the King's pleasure.

The Comon lawe delights in certaynty, *quod certum est retinendum est.*

Incertaynty the mother of confusion and debate.

This certaynty the lawe requires in all men's actions; *a fortiore* in his owne acts, which is custome: most of all in getting certaynty and peace betweene the Kinge and his subjects, the lyon and the lambe.

Fines upon originall wrytts certayne; given by lawe.

Fines *pro licentia concordandi;* the tenth parte of the value of the land.

Tender of a demy mark to the King, for not proving *seisin* in a wrytt of wright.

Relief of an earldome and barony, 100 li. and 100 marks.[c] Old law.

Ayd *pour file marier*, reduced to a certaynty by statute.

Escuage reduced to a certaynty by Parliament.

Fynes and amerciaments reduced to a certaynty by judges and juries.

Where fine and ransome is given to the King by Parliament at the King's will and pleasure, yet the judges must assess the fine, and not the King *in camera*, &c. 2 R. 3, fo. 11.

7 H. 4. If a warre be within the realme, all bound to goe with the King. For warre upon the borders bound to go but by contract. For invasion of other kingdomes, not bound to goe.

Moste kings have taken impositions by Acts of Parliament. Pray

[a] Marginal note, "Antiqua."

[b] The Statute of the Exchequer is now printed among the statutes of uncertain date; and is supposed to have been made in the reign of Edward I.

[c] Marginal note, "Contr. per Glanville."

his subjects to give him, &c. He would not pray theyme for his owne. E. 1 payd for theyme.

E. 3, 17 *regni*, driven to such extremity that he was driven to lay his crowne to pawne to certain merchants of Florence, which he would never have done, if he had had power to impose upon his subjects.

4 H. 5, a guift of tonnage and pondage during his life.

Not 6 impositions from the Conquest *usque Mariam*, such as now be (except it were upon restraynt). From 11 E. 3 *usque* 21 E. 3 a restraynt of wools. All impositions during this restraynte onely. 24 E. 3, 26 shillings [the] sacke during the warres. Also complaynts usuall against theise by way of dispensation. 23 H. 6, cap. 18, such impositions upon dispensations condemned.

Bound by Act of Parliament, Magna Charta. The statute generall. A beneficiall lawe. All merchants: *quia omnia dicit, nihil excipit.*

A president, 21 E. 1. Englishmen complained of an imposition as contrary to theyre charter.

Consuetudo aquæ Thamesis. Consuetudo piscis usque pontum Londinii. Consuetudo omnium merchandisarum.

A. 3 E. 1 *usque* 27 E. 3, *nova consuetudo.* After called *custuma;* which was generall. But now restrayned againe to the customes of the staple comodities.

2 statute, 25 E. 1, cap. 7. No such things, &c. *Onerum impositio est odiosa.* And therefore a favorable construction must be made.

The particuler request was for wool, which was fully answered in the first clause, &c.

Saving the customes of wools, woolfels, and lether. So the grant was more generall then the petition or exception.

Interpretatur Statutum prout veresimile est; the makers of the Statute would have answered.

Postea in 26 E. 1 a proclamation upon the former Statute: *concedent quod custumam de lana—vel aliam:* or any other custome, &c.

Statute *de tallagio non concedendo.* No tallage nor ayd. Ayd extend *al custome.*[a]

36 E. 3, cap. 11, No charge or subsidy shalbe sett upon woolles. 17 E. 3, The merchants granted a subsidy. 12 E. 3, rot. 42, *Subsidia nobis concessa per mercatores.* Subsidy and ayd all one.

Thomas Walsingham recites the Statute; and that it was made by reason of an imposition upon wools.

3. 14 E. 3, cap.—.[b] The Kinge promiseth to assesse or sett no more upon the customes.

4. 14 E. 3, cap. 1. 9th sheaf, &c. granted. The Kinge granted that the same shall not be drawne into president, and that they shall not be charged with any aydes, &c.

The mischief for which this law meant to releive was the imposition sett by reason of the restraynt: *ut patet* 13 E. 3, rot. 3.

Ob. The 3*d. per libram* contynues still upon strangers.

Sol. The decree of the Commissioners in 5 [E.] 2 condemned it. In 27 E. 3, cap. 26 *vel* 27,[c] this *Carta Mercatoria* was confirmed by Act of Parliament.

Ob. The King may restrayne.

Sol. He may restrayne upon some occasions, to some places where warrs are. Nay, he may restrayne all the merchants and all the men, as upon the death of the late Queen, yet may not impose. Thoe he may shutt up the gates of London for a tyme, yet he may not impose upon such as goe throughe.

But he cannot restrayne all merchants from going to all places, and at all tymes.

King H. 7, a frugall prince: prolling[d] officers: yet upon the imposition of Malvseyes, he did not impose without Act of Parliament.

[a] Query, "extends to all custome." See State Trials, ii. 463.

[b] Stat. 1, cap. 21.

[c] Cap. 26. The printed report (State Trials, ii. 432) quotes 36 E. 3, which is an error.

[d] Query, "prowling."

King H. 8 sent out Commissioners to demand the 6th parte of all men's goods.

And therefore if he had power to impose he would be sure to have used it.

[The debate reported above occupied two days, Saturday, June 23, and Thursday, June 28. It was again resumed on the following day.]

29 *die Junii*, 1610.

Necessity of the King. Greavance of the Subject. MR. TATE.

If the King in necessity extend his prerogative, that is no sufficient ground of the right.

So if the subjects be greived, that shewes an excesse, proves no right.

All that may be sayd, either concernes the
1. Reason of impositions.
2. Person that payes.
3. Things chargeable.
4. The quantity of the imposition.
5. The tyme of the imposition.

1. Reason. He cannot fynde when it beganne. Magna Charta of Runnymeade, 17 John.

Lib. Domesday makes mencion of impositions in *sultlace in com.* Surrey;[a] before the bridge was buylt there was a place for shipps; and it is sayd there that, *exitus aquæ*, 2 parts did belong to the King, and 1 to an Earle. So the proffitts of the porte nere Arundell Castell.

Patet per records of the Abbey of Abington: King Edgar granted to the Abbot *regale vectigal in portum Southampton.* So of Dover, in Lucius' tyme.

Being so ancient, it was *rectum et debitum.*

In libr. pertenen. Ep. Landaff. that ships did arrive at Carlyon in Merionethshyre, and that the merchants did pay *constitutam consuetudinem* (so it was certayne), *pro licentia applicandi naves, et mercandi.*

2. Person. If this be the reason, it extends not to the Subject

[a] At Southwark, Domesday, fol. 32 a. Can *sultlace* be miswritten for Sudwercke?

to have *licentia mercandi:* it is his birthright. So, if the Subject departe out of the kingdome and retorne, the head cannot refuse to receave hym. So this extends only to merchants strangers.

3. Things chargeable. *Consuetudo* must charge the things. If it have not bene payd it is not dew. Tolle derived from suffering. *In jure passiveo non fit extensio.* If the Subject have suffred, his patience must not be extended to those things which have not bene payd.

In jure passivo ultra id quod possessum est non est jus.

Aliter in such things that are due of comon right. A possession of part is a possession of the whole.

4. The quantity is certayne, not arbitrary. Moste customes payd by composition 3 E. 1, *et* 31 E. 1. The hundred parte of the merchandise is the certayne quantity that is due, in his opinion.

His reason is: this land was conquered by the Romaynes, and they layd impositions. 2 kyndes demanded: Personal tribute; The second, custome upon merchandise, which was the hundred parte.

Greg. Castanæus speaks of the 8th parte, *i.e.* in tyme of warre. The books of composition prove the 100th parte to be due.

The composition *per Cartam mercatoriam* is iiid. in the pound, which is the 80th parte.

Custome and *theolonium* taken one for another.

The Statute of Westminster, an Act prohibiting the taking of outrageous tolle. Now the proportion that the lawe allows for tolle in the market is id. in the pound, if it be above xxs., and ob. under. Authority: Myrrour of Justice.

[5].[a] Tyme. The impositions layd by the Conqueror, while he had his sword in his hand. So that onely in tyme of warre impositions ought to be layd.

Never any impositions layd in tyme of peace. Magna Charta, *Nisi in tempore belli.* 21 E. 3, 26 E. 3, Imposition layd *si guerra tamdiu duraverit.*

[a] "4" in MS.

12 E. 3. Letter to the Archbishop. Necessity did inforce hym. And therefore wisht hym to pacify the people.

So that Castanæus' allowance of the 8th parte of the goods is onely to be understood in tymes of warre.

He but delivers his opinion; for one of his feet stands in the clouds of antiquity, and the other upon the water; for this imposition hath no ground upon the land.

He moved that which was moved in the Statute of 14 E. 3, *et* 13 E. 3. They offred money for liberty. So he wished an Acte to be made, that the Kinge might have the 100th parte or the 80th part in peace, and the 8th parte in tyme of [war].[a]

In poynt of right the King may impose. He wished wee would judge of hym in colde bloud. MR. YELVERTON.[b]

No Act of Parliament yet made, nor any can be made, but the Kinge may impose.

2 things considerable.

1. Upon occasion he may impose. [2.] Let hym impose upon what cause he will, the reason and cause thearof will never come in question.

[a] "peace" in MS.

[b] Yelverton's name has hitherto been affixed to a speech of a very different character, which was actually delivered by Whitelocke. The following notice of this debate may be found interesting. It is contained in a letter from Dudley Carleton to Sir Thomas Edmondes (The Court and Times of James I. i. 121): "The day being appointed for debate of this matter, and much straining of courtesy who should begin, the entrance into the business was made at last by Mr. Fuller, who speaks, as you know, always honestly, but that time very sufficiently. He was answered by the Recorder. There followed, several days after, on the one side, Hakewell, Crew, Whitelocke, and Brock, with some others of less note. On the other side, the Solicitor, the Attorney, and Sergeant Dodderidge, with Henry Yelverton, whom I must name amongst others of that side, but with this difference, that as all those who I have named did so well that it is hard to say who did best, so without question, both of these, and all others that spake, this Henry the hardy did absolutely the worst, and for tyrannical positions, that he was bold to bluster out, was so well canvassed by all that followed him, that he hath scarce shewed his head ever since." The well-known story of Yelverton's restoration to favour, after his disgrace on account of his speeches in the session of 1607, will be found in Archæol. xv. 27, and may perhaps have some connection with the tone of this speech.

4 *Cases.*

1. He may impose to mayntaine equality amongst the merchants theymselves. If one merchant engrosse all the trade, the King may impose upon hym. It is not fitt that all the rest should starve. Imposition upon Harvy and Sir John Spenser. All sonnes of the same Prince.

2. He may impose to keepe the ballance even betweene hymself and forrayne Princes. Agreeable to state, pollicy, and lawe. The presidents in 27 H. 6 *et* 7 H. 7,[a] prove not that the Kinge could not impose of right. Perhaps the other Princes in those cases did it by a publick edict, and therfore the Kinge would observe the like course.

3. If a forrayne prynce growe greate and wealthy by our commodities, and wee weake, the Kinge may impose.

4. In tyme of[b]

Reasons.

That he may impose by the comon lawe.

2 kyndes of impositions.

1 by way of custome or tolle.

2 by way of penalty.

The question is not now of the first. He thinks he can hardly impose in point of custome, thoe custome be due by the comon lawe. He cannot impose a new custome. The series of the statutes make against it.

Impositions by way of penalty. Neither lawe nor statute against this. If the comon lawe had sett downe an order in poynt of merchandise it were to be observed. *Vide* Brook: Denisen, 16. So the statutes are but explanacion of the comon lawe.

Impositions may be layd upon merchant strangers 13 E. 4. But

[a] Marginal note "Burgundy and Venice."

[b] There is a space left, as if the copyer intended to fill it in afterwards. Perhaps the notes were here illegible. I suppose the 4th case was "In tyme of war."

the merchants of England trade not by the comon lawe of the land, but by the lawe of nations.

But for impositions upon comodities within land, as upon alehouses, they are against lawe, because the comon lawe hathe prescribed a forme.

22 E. 3, fo. 10. Tryall apoynted *per medietatem linguæ*, before any statute.

Yet he altered not the equity of the lawe, which apoynted an indifferent triall to all; but he altered *præceptum legis*.

20 E. 1, Crown: Fitzherbert.[a] Grant to Londonners that they need not joyne battell: a good patent. It stands [not] with the equity of the lawe to compell a citizen to joyne battell with a souldier.

40 E. 3, f. 15. Grante[b] to merchants of the staple to take any man's howse in Westminster from hym. It is intended that it was *pro bono publico*, and that stands with the equity of the lawe.

Wee are where the common lawe cannot judge. The merchant hathe no remedy agaynst hym that spoyles at sea. He is not under the protection of the lawe, thoe under the protection of the King. An outlary therefore voyd of one beyond sea. He is under the jurisdiction of the King by the lawe of nations, 6 R. 2, Protection,[c] 46. The King onely lord of the sea.

Freeborne goods, the King makes theym alien, and therefore he may have a fine for that.

So, strange goods, he makes theyme denisons.

The comon lawe cannot judge of matters at sea, and therefore the law setts no rule.

In what kinde hathe he imposed? Not as any other before hym.

By way of penalty upon a restraynt precedent.

[a] Fitzherbert. La Graunde Abridgement, Coron. 125, quotes 20 Edw. III, Citizens of London were to be excused from trial by battle.

[b] Marginal note, "Left a quere."

[c] i.e. the title "Protection" in Fitzherbert's "Abridgement."

Magna Carta. If they be not openly restrayned, so no freedome of trade granted, except they be not restrayned.

Bates' imposition was upon a restraynt. You shall bring in no currants. If you doe, you shall pay so much, &c.

4 E. 4, fo. 35, 1 H. 7, fo. 10. Allom. The judges could not help theyme, but the lawe of nations must help theyme.

2 E. 3. Bryton's [a] case. The Chartere good in poynt of lawe, but remedied by the statute of 9 E. 3.

Theise were the evill tolles taken by corporacions.

If a statute be made that the Kinge shall not govern the trade of merchants, but in this manner, &c. the statute were voyd, for it concernes the King in his prerogative and government, 21 E. 1. *Quid est talentum?* Goe aske the King.[b]

A privy seale to the officers of every porte is an open restraynt. It is open to theyme whome it concernes. There needs no proclamation. Fitzherbert. *Ne exeas regnum.*

10 Eliz. Mynes. The prerogative of the Kinge to have royall mynes is not grounded upon the comon lawe. No sillable in the comon lawe concerning that matter.

It stands with reason of government. *Oportet adaptari politeia legibus, et non leges politeiæ.* That is to be understood in cases where the comon lawe hathe sett downe a certayne order.

Thoe the imposition be excessive, yet none can judge it but the King, no more then the restraynt.

MARTYN. Mr. Yelverton hathe concluded that this matter is not determinable by law; but Bates' case was adjudged by the judges of the lawe; and so he hath brought the judges into a *premunire* already.

Mr. Yelverton's [c] position: an arbitrary, irregular, unlymited, and transcendent power of the King in imposing.

[a] This is the case of the port of Yarmouth. See Hargrave's Tracts, i. 61, and State Trials, ii. 515.

[b] Marginal note, "Coyne."

[c] At the top of the page, which in the MS. begins here, is written "Eodem die post meridiem." This must include the first paragraph of Martin's speech written on the preceding page, and perhaps inserted afterwards.

Martin & Yelverton's speech

This mayntayned by a distinction of a { Regall / Legall } power.

If the Kinge have an absolute power, it is in the matters of justice, or in matters of treason or felony. 1 H. 7. He cannot arrest a subject for suspicion of felony or treason; for that the subject (if the Kinge doe any man wronge) hathe no remedy.

Others before hym added three lymitacions to this power, tyme, proportion, and quality, so they make it a legall power; but they sayd none can judge of theise lymitacions, when they are observed or no, but the King hymself; and so it retornes to a regall power.

Mr. Yelverton sayd the King had not this power by the comon lawe, but by the law of nations; but the question is, whether the King of England, by the lawe of England, have any such power, &c.?

The King of England the most absolute Kinge in his Parliament; but, of hymself, his power is lymited by lawe.

The inhabitants of the kingdome are, by the constitution of the kingdome, parcell of the kingdome.

The merchant's liberty and richnes is upon the sea. He hathe as good right to plowe the sea as the plowman hathe to plowe the land.

The comon lawe extends as farre [as] the power of the Kinge extends. It is as the soule in the body. The liberty of the seas is parcell of the liberty of the subject.

MR. ATTORNEY.[a]

The Kinge cannot change the lawe, nor any other but they that make it. *Cujus est constituere, ejus est destruere.*

The question is not whither the King can charge the lands and goods of his subjects within the land.

1 question. Whither by the comon lawe (where no restraynt impeacheth that power) he may impose upon goods transported and imported?

2 question. Whither he be restrayned by any Act of Parliament?

[a] Sir Henry Hobart, member for Norwich, Chief Justice Common Pleas 1613.

The question is merely *de mero jure*, not of the excesse or inconvenience, for that is the poynt of abuse and excesse.

1 grounde. In all soveraigne states there are certayne *jura majestatis*, that doe designe where *summum imperium* is in the state, *i.e.* warre and peace, making of lawes, coyne, indenising, creation of majestrates, calling or dissolving of parliaments, pardoning of offendors, imposing. If the state be populer, theise are in the people; if a monarchy, then directly in the King.

Question is which of theise is in the King. Let no man marvell that the King hathe in some cases absolute power, as in warre and such like.

But he cannot make lawes without assent of Parliament. This I knowe by the constant acknolledgment of the comon lawe, and statutes throughe out all ages.

Stat. de provisoribus, 25 E. 3. The Kinge bound to redresse all mischeifs in Parliament.

But the proofe of this question lies not upon the King's parte but upon the parte of the Subject.

For all theise *jura majestatis* are supposed to be a habite in the Kinge. He that will suppose that a man cannot see must prove that he is blynde, for every man is intended to see.

So the Kinge's seemes to be imposition, and to have right till you have disproved it.

He that will judge aright of this question must not cast his eye onely upon the King's power as it is within the 4 sease.

Difference of theise powers. The Kinge cannot forbid his subject to passe out of Suffolk into Norfolk, for it is a kynde of imprisonment.

So the Kinge cannot compell me to buy my goods at one place or towne onely.

But the Kinge may forbid any man by his proclamation, to goe out of his Kingdome.

The wrytte is because you intend to practise somethinge hurtfull to the State abroade, but that is no parte of the essence of the

wrytte, for Fitzherbert sayes that this wrytt lies because [he][a] may have use of hym at home.

Presidents of prohibitions. 2 E. 1, Prohibition; Flanders. 2 E. 1, Wools; Feres-cinell[?]. 22 E. 1, 10 E. 3, Boards, necessary for shipps.

If this be true that he may inhibite, then, by a consequence, the Kinge may impose. Statute of restraynt by 11 E. 3, ca. 1. And therupon the King wrought upon that lawe till 14 E. 3.

And therefore, if by the comon lawe the Kinge have the same power to restrayne, then he may make the like use.

But you will confesse that in case of warre he may restrayne. So he may restrayne in peace.

If you cannot devest this power from the Kinge, it inheres in hym.

2 wayes to impose: by the King's power, and by Parliament. Presidents of the first sort are stronger, for (sayth he), I will confesse all your presidents. But, if you confesse my presidents, the question is at an end.

5 or 6 presidents will intercept all your proofs.

The first costomes, till 3 E. 1, were not layd by Parliament. He allowed that to be by Act of Parliament; the Act of 25 E. 1 proves it.

22 E. 1. 40 s. per pack: an imposition, but not by Parliament; by grante of the merchants, *gratuiter*. The grante of the merchants stands good to this age by the power of the Kinge.

16 E. 1. The Kinge merely of his owne regality imposed upon the wynes *de Britareaco*.

A° 31 E. 1. *Carta mercatoria*, which was not confirmed by the statute of 27 E. 3, cap. 26,[b] for that statute was made upon another reason, for that they were trobled for want of letters of credence.

Apoynts that they should not be trobled, not taking of theyme more then 3 d. in the pound.

A° 24 E. 3. Imposition of 6 d. per libr. for a tyme, but the tyme is not materiall.

[a] Indistinctly written in the MS. but apparently "we."

[b] Marginal note "It stood of itself till 27 E. 3."

2. The lawes made upon complaint of the people doe inferr a right.

25 E. 1. Theyre complaynt is by petition, and desyred a release; which implies it was justly made. And the King at theyre request did freely release it.

14 E. 3, cap. 21. The Comons did pray the Kinge, and the King prayeth the prelates and Comons, &c.

The Kinge granted that from the feast of . . . . [a] there shall be no imposition by the Kinge or his heyres.

No Act of Parliament
No answer of the King } sayes it is a wrong.
No petition

The hardest word is maltoll.

As there is *malum culpæ*, *malum pœnæ;* so there is *malum oneris*, *malum injuriæ*. It is *malum oneris*, not *malum injuriæ*.

3. In what cases and in what things the King is restrayned by Parliament, for he sayd he was not of theyre opinion that thinke he cannot be restrayned.

25 E. 1. Hathe generall words as well as particuler.

The petition was only in the poynt of wools. It is not probable that the King did grante more then was desired.

Such things, *i.e.* such impositions upon those comodities, neither the 20s. nor the 40s. per sacke he would have, &c.

14 E. 3, [cap.] 2. The petition of the Comons was for 5 things only; and the King granted but 3, and denyed lead and tynne.

45 E. 3, cap. 4, extend onely to wools, woolfells, and leather.

The last lawe that speaks of impositions, 11 R. 2, cap. 9, the like lawe. All bearing upon theise 3 comodities. An exposition of the Statute of 25 E. 1.

Case of mynes. You shall not carry from the King a direct prerogative by generall wordes.

14 E. 3. Paying the subsidies, customes, and proffits reasonably due, &c.

[a] Left blank in MS.

The intermitting of the use of imposing takes not away his right. Presidents in the case of mynes onely in 7 E. 3 *et* 8 E. 4, yet a sufficient ground for the judgment.

Ob. The King's owne acts are no evidence for him.

Every man's cort's rolls are good evidence.

Ob. The Comons ever complayned of[a] . . .

Ob. The lawe affects certaynty.

What certaynty is in the fines for alienacion ?

Ob. The arbitrary power fearfull.

Sol. The King's in law presumed without imperfection, and imortall.[b] Nonage.

The monarchy the best state, and wee must trust hym in some thinges, &c.

It is better to have a tyrant, then no Kinge.

In a kingdom composed as ours is, *hoc possumus, quod jure pos-* MR. CREW.[c]
sumus.

Question. *An sit licitum, &c.?*

1. To impose upon a supposed prerogative upon merchandise exported or imported in tyme of peace not lawful.

2. If the King had any such power, it is bound by the Statutes of free trade, and of tonnage and pondage.

The King hathe *jus accipiendi, non jus præcipiendi.*

The King of England in some cases hathe an absolute power, as in tyme of warre, which being grounded upon necessity is become legall. 9 E. 4, buyld bulwarkes.

The prescriptions of murage and pontage being reasonable, are also lawfull.

The word imposition a stranger and an alien: no ground in our lawe, no mencion of this imposition.

Ob. But it is a prerogative inherent in the person of the Kinge, and you must disprove it.

[a] The sentence breaks off thus in the MS.

[b] Marginal note, " Rex tempore decipitur." Probably added by the note-taker himself.

[c] Thomas Crew, member for Lichfield.

Sol. In the lawe of England there be thinges which the Kinge cannot doe of hymself, as to make lawes.

But what prerogative he hathe of hymself is confirmed by an uncontrollable custome, as making warre, &c.

Usque 1 E. 1, no imposition. *Tempore* E. 2, no imposition. 46 E. 3, *usque* Q. Mary, no imposition.

Impositions domesticall allowed to be not warrantable. And if the Kinge will challeng this prerogative, he must prove his demand to be just, as if he will demand a rent out of England.

Proofe on our side.

Statute: Prerogativa Regis. Fortescue, cap. 9. Frowick's Reading upon prerogative, temp. H. 7, inrolled *in cancellar.* No touche of this prerogative of Imposition.

Fortescue coples bothe together. Escuage a prerogative in the King, yet lymited by Parliament. Littleton.

2 R. 2, fol. 10. The King cannot fyne *in camera.* He must doe it by his Judges.

13 H. 4, fo. 14, 15.[a] Office of Alnage voyd grante for that it was a charge to the people; and that reason is entred upon the rolle.

Passage of highwayes on land. Passage of *altum mare.*

22 ass. 18 throughe toll,[b] throughe the Kinges higheway, acc. 9th E. 3,[c] 20 E. 3.

The ports of the sea are as free: at leaste made free by Act of Parliament. Freedome and liberty of merchants: *lex mercatoria* 10 H. 7.

The Kinge may restrayne in particuler, but not in generall in tyme of peace.

If he might restrayne by lawe, yet he is restrayned by Parliament.

12 El. Dyer needs no lycence to goe beyond sea. The sea sett free 15 E. 3, cap. 5; all merchants &c. 18 E. 3; the seas shalbe open to all merchants 38 E. 3.

The restraynts have bene allwayes by Act by Parliament; because

[a] Marginal note "Hull," the name of one of the judges in the reign of Henry IV.

[b] Perhaps "no toll."

[c] Stat. 1, cap. 1.

the former lawes had sett open the seas: 50 or 60 statutes to that purpose.

All costomes by consent, or by Acte of Parliament.

The demy mark, the 3 d. per lib., and what is given by consent growes not by power to impose.

21 E. 3, and 24, the 14 d. of English, for clothes, and 21d. of strangers, granted by Parliament.[a]

It is against the nature of argument to say they gave it voluntarily, therefore the Kinge had power to impose it.

A constant and contynuing costome bound the successors of the merchants.

It beganne in 31 E. 1; it was taken away in 5 E. 2; but revyved *temp.* E. 3.

Stat. 27 E. 3. A confirmation of that 3 d. per libr. thoe the scoape of the lawe to another purpose. Wee stablish that the Chartre be holden without any thinge takinge of theyme more then the 3 d. per libr.

Examyn it out of antiquity. *Seris venit usus ab annis.* Magna Charta 3, cap. 7. *Sine omnibus malis tolnetis : per antiquas et rectas consuetudines.* What was then was *antiqua et recta.* What is more is *mala et nova :* not *recta, antiqua, et consueta.* Cap.—,[b] *nisi per legale judicium.*

5 H. 5. The liberty of the subject to trade is to be tried *per legale judicium.*

Nullus amercietur. Salvo contenemento : salva merchandisa.

1 Eliz. fo. 155. Q. Mary, being the 22nd Queen from the Conquest, did [impose] upon clothe.[c]

It is sayd there that at the comon lawe none due but the demy marke, &c.

The petition was to be [disburdened][d] *in toto* not *in tanto.*

Babington. 9 H. 6. A booke adjudged. The Kinge of Eng-

[a] This is hardly a fair statement. See Hale in Hargrave's Collection of Tracts, 166, and Rolls of Parliament, ii. 168.

[b] Left blank in MS.

[c] MS. "upon on clothe."

[d] MS. "disburned."

land hathe an inheritance in the petit custome, *i.e.* the demy marke, but the greate custome he hathe by the consent of Comons in Parliament.

1 Mary. The patent to stand for the ancient custome, but the subsidie ceaseth.

16 H. 3. memb. 20, *faciend' debitas et rectas consuetudines.* 21 E. 1, 25 E. 1. Except ancient ayde and taskes, and the taxe of 40 s. per packe.

Eodem anno, cap. 7, and other such thinges, *i.e. ultra rectas et antiquas consuetudines.*

31 E. 1, *gratanter;* 5 E. 2, constitution. Such things are against the greate Chartre (saving the demy mark, &c.)

14 E. 3. The statute negative, and concernes merchants and merchandises. And there shall be no ayde but by Parliament. Merchants named. Explaned by 15 E. 3, cap. 5.

24 E. 3, cap. 19, stat. 22 H. 8. A table sett up in the porte townes that nothing should [be] exacted more then of old hathe bene accustomed.

Statutes of tonnage and pondage.

Safe passage.

Covenant to stand seised to the use of the Kinge, because he is the head of the Commonwealth and preserves the peace of the land. No use riseth.

11 R. 2. Nothing is saved but his ancient customes.

Answer to other objections.

1. If a forrayne prince impose why may not wee impose?

Wee may doe it in Parliament; but, in tyme of warre the King may. Excepted by Magna Charta. 9 H. 5. Wee shall use theyme as they use us.

2. Fynes upon originall wrytts, *igitur.*

That fyne hath contynued tyme out of mynde, and is not alterable by the Kinge.

3. Murage and pontage.

They have allwayes contynued tyme out of mynde a benefit to the subject.

4. Hallage: Chamberlain.

It is reasonable, certayne, 3d. per cloth, and confirmed by Parliament.

5. The King lymited to impose upon the 3 staple comodities; at liberty for the rest.

No other merchandise then in use. Other things; such thinges, extends to all other merchandises.

6. If lawfull, free to petition. If unlawfull, flie to judges.

Greevances unlawfull remedied by Parliament. Bryton's case. His patent repealed by 9 E. 3.

25 E. 3, cap. 5. All chartres granted contrary to 9 E. 3.

15 R. 2, cap. 10. Patent.

1 [R.] 3.[a] Benevolences damned by Parliament.

7. Smyth's case.

He receaved it as customer, and therefore accomptable.

8. The King may alter the precept of the law, and retayne the equity.

9. Sir John Spenser charged, &c.

10. Theise impositions sett by way of custome, and not by way of penalty.

11. The King by his patent enabled a triall *per medietatem linguæ*. 22 E. 3.

That patent is voyd. Every triall must be by lawe *per liberos et legales homines*.

And therfore such triall was established by Parliament, 27 E. 3.

12. Grant that the Londoners shall not joyne battell. There chartres confirmed by Parliament.

40 E. 3. Case of Oxford. Stapler's case voucht not lawfull, &c.

13 E. 4.

1 H. 7, fol. 10, Allóm. Nothing to the purpose.

[a] "E. 3" in MS.

MR. SERJANT DODRIDGE.[a]

The matter intermixed with prooffs of divers natures: records, Acts of Parliament, judiciall acts, arguments legall, &c.

Est modus in rebus, &c. The vertues theymselves consist in the meane, &c.

The question is onely of the right. *An possit imponere omnino* upon goods transported or imported?

No question of the quantity or the quality, for in that I am of the same opinion that you are of.

1. What were the customes anciently?

Dignissima vox est principis profitentis se esse legibus alligatum.

Bracton. *Rex dicitur a regendo non a regnando.* Therefore he cannot alter lawe, nor impose upon his subjects' goods within the land.

Many agreed that customes were by the common lawe, and that is truthe.

39 E. 3. *Accion sur le case.* See what the old customes were *in portu* Southampton.

30 H. 8; Dyer, fo. 43. Customes originally were by the Common lawe; old [?] and ancient inheritance of the Crowne. And the demy mark, granted by Parliament in 3 E. 1, is but an abridgment of the ancient custome.

As ancient as the Monarchy. But they came not from the Subjects' grante, therefore inherent in the King. Acc. 1 Mary; Dyer, 42; and 22 E. 4. Subsidy, the Subjects give, &c. But the custome is from the Crowne. And, if the Subjects be *in jure passivo* (as Mr. Tate sayd), then it proceeds *a jure activo* from the King's regality and power.

None can tell what the custome was before it was abridged by 3 E. 1.

2. As the King had a power to impose customes, so he had a power to restrayne.

King E. I. restrayned all merchants, but he had no warre with

[a] Sir John Doderidge, Member for Horsham. Just. K.B. 1612.

all nations.[a] The like *in temp.* E. 1, E. 3, *et* H. 6. Many more records.

This is allowed by the Statute of Magna Charta, *nisi publice antea prohibitum fuerit;* which is onely to be understood in tyme of peace.

Then he that [can] doe the greater can doe the lesse; *cui quod majus est licet, id quod minus est licet.* If he may restrayne he may impose. Restraynt is the mother of the impositions. It is then an imposition borne.

Theise originalls of the state of government agreable to lawe.

3. A twoefolde lawe in every kingdome. *Jus politicum, jus privatum*, Bracton, lib. i. c. 2.

The Comon law much and most occupied *in jure privato.*

But *jus publicum* you shall finde in the records. Mencion *de jure publico* in bookes.

165. Register. A wrytt to proceed *secundum legem mercatoriam.*

3 E. 1, memb. 34. *Rex mandavit vic'* patents *Londi' quod omnes mercatores Leodicenses* (desiring), *secundum legem mercatoriam et consuetudinem regni,—ad satisfaciendum Florentinis.*

Register, fo. 121. A wrytt of reprisall, at the comon lawe. *Jus publicum.*

4. The reason of customes is for that the merchants have the benefite of the ports, and those are the King's; 20 E. 3, rot. 92. The porte of Newcastle sayd to be the King's, 2 E. 3. The King granted a chartre to the towne of Greate Yarmouth. After, he granted the towne of Little Yarmouth to John Bryton.

Petition in Chancery to repeal the patent.

Portus est locus tutus, et tuta navium statio.

13 E. 4. Merchants' goods not wayf nor stray.

18 El. Dyer, 313. The maior of London hathe granage of salt. If the Subject may have it in respect of the custody of the porte, much more the Kinge.

19 E. 4, fo. 6. The King may make warre and peace, with what articles.

[a] Marginal note "32 E. 1. That extends to strangers."

And usually in all those articles are the poynts of comerce agreed upon. Therefore that is another reason why he may impose. He procures his subjects liberty of comerce.

Statutes. 25 E. 1, cap. 7. Maletoll of wools. Grant for us and our heyres, that wee shall not take such things, &c.

The Statute consists of of 3 things.
- A petition of vexacion, not right: sore greived.
- A remission.
- An ordinacion.

1. Walsingham. *Tota comunitas sensit se gravari, quia nimis onerosa fuit.* His reason, *ne lana Angliæ.* Was the half of the wealth of the kingdome; and this imposition was the 5th parte of the value of the woolle. So it appeares that the excesse is complayned of.

Maletout, nott taken *in malam partem.* Some records make mencion of droyturell malettolls, &c.

"Such things" I expounded by records in 26 E. 1, and by Walsingham *eodem anno*, ayds prises, taken by the King without paying any thing.

Walsingham makes mencion that he had another maltoll of 3li. 6s. 9d. per sack, to which "such things" did extend.

Mem. Scacc. 26 E. 1. Vic. Stafford.

The execution of the former statute extends onely to woolls, woollfells and leather.

All this tyme the Kinge had another imposition of 4s. upon every tonne of wyn de Britariaco, &c. All England payd. The accompts of this 4s. per tonne by the merchants in Bristoll. John Randall. Released it to all merchants strangers, *et omnibus civibus Londinii*, but *quamdiu regi placeret.* So that that release was not grounded upon the statute of 25 E. 1.

5. E. 2. Ordinance, &c. The kingedome in poynte to rebell, and the imposition taken away.

But in 15 E. 2, the King tooke to hymself power to impose, &c.

In anno 10 he wanted money, and a charge was layd *de mutuo* upon all merchants by the consent *quorundam mercatorum.*

Stat. 14 E. 3, cap. [21]. Grant to the King of 40s. per sack, and of other merchandise after that rate, *usque* Pentecost.; for which the King grants that they shalbe free of any imposition above the demy marke.

1. Extends onely to Englishmen, thoe the petition was for all.
2. He answers not to tynne nor leade.
3. Also he ties it with a condicion to bringe in bullion.

The subjects gave more to this Kinge then they gave to God, the 9th part.

They payd the 1st yeare, but they compounded with hym for the 2d yeare, and gave hym many thowsand sackes of wolle.

Stat. 14 E. 3, cap. 1.[a] Free trade: paying the customes, subsidies, and other proffitts thearof reasonably due. So there is a kynde of proffitt that, if it be reasonable, it is due; if unreasonable, not due.

Mare publicum, *littus maris publicum*. Property of the sea no man's. The sea is His, and He made it; but *terram dedit filiis hominum*.

The use is comon. But the goverment of the sea is the King's to shutt and open the portes.

2 instances of necessity of impositions by the Kinge.

Greate trade to the New found land for fish, which cannot be without salt of France.

The French King therefore hathe *magnum vectigal salis*.

The Kinge of Denmark hathe goverment of the Sound, which if he shold stoppe, except wee might doe the like by his subjects, wee should have no trade thither.

28 H. 6, cap. 1. The Duke of Burgondy prohibited English wools *sub pena forisfacturæ*. But the King did not prohibit hym, because there was a league betweene theyme of his owne authority.

But after he had often sent to hym, in the end he was prest by his subjects to provide a remedy. But unwillingly, because he had then warre with France.

4 E. 4. The like prohibition by Parliament grounded upon the

[a] Marginal note, "et cap. 2; vide 14 E. 3, stat. 1, cap. 25; some ayd of wools, 15 E. 3, [St. 3.] Cap. [5], paying the customes of old tyme used."

like act made by the Duke. But no warres. He was still held as a frend, and a frend to our losse.

12 H. 7. Venetians, &c. Imposition of malvesey. But it was suffred 2 yeare before they complayned of it.

Ob. Of the tonnage and pondage, and discontinuance of impositions, from R. 2 till Queen Mary.

An Act of Parliament, *temp.* H. 6,[a] that all comodities should be carried to Callys, which was English. And so the King had doble custome, bothe here and there. A notable summe.

8 H. 6, cap. 17. The custome of Callis is sayd to decrease by reason of lycences granted to carry to other places. 27 H. 6, cap. 2, the customes of Callis came to 68,000 li. per ann. and more, after xx d. the ounce, which is as much as 200,000 li.[b] is worth now.[c]

And this is the reason why impositions were not layd in those tymes, for the King needed it not.

The tonnage and pondage granted in consideration that the Kinge should kepe the seas from pyrates; not to be free from impositions.

Three reasons why escuage is assessed by Parliament.

1. It concernes the whole realme, *mesne* lords as well as the Kinge.

2. If every man had power to assesse it at his pleasure, greate inequality and confusion would ensue.

3. Also if that course were taken, it were impossible to be levyed.

4. The creation of tenures is, that they pay such a somme when the Parliament dothe assesse it, &c.

Amerciament is fitt to be assessed by those that knowe his estate.

So the fine to be assessed by the judges according to the quality of the offence.

Fortescue speakes only of strange impositions. The Statute of Prerogativa Regis includes not all prerogatives.

[a] Marginal note, "12 R. 2, cap. 10; 14 H. 6, cap. 5."

[b] Marginal note, "12,000 li. per ann." apparently inserted as a correction of the statement in the text.

[c] Marginal note, "*Sol.* All the gayne was spent in soldiers' wages, walls, sluces, tankes, and towne repayres, officers mayntayned."

Frowick speakes not of this prerogative.
Much water goes by the mill, &c.

[The debate was continued on Monday, July 2.]

3 matters moved in this Parliament of greate weight. 1. The name of Greate Brytayne. 2. The union. 3. This question: *an simus aliquid, vel nihil?* MR. WHITLOCK.[a]

Whither wee be tenants of what wee have at the King's will or noe.

By the booke of rates and letters patents theise impositions are sett for hym and his heyres and successors. Wheras all former impositions were sett but for a tyme.

Theise impositions against law for 4 reasons.
1. Against the established forme of goverment.
2. Against *jus privatum*.
3. Against Acts of Parliament.
4. *Contra morem majorum*.

He agrees that in this state the soveraigne power rests in the Kinge.

But he hathe power { in Parliament; / out of Parliament.

The first power controllable by the later.

As, if he grantes letters patents, of hymself he cannot controlle it, but he may in Parliament.

In Parliament he may reverse that judgment, which he himself gave in the King's Benches.

The Kinge may only make laws in Parliament, which is in hym as in his soveraigne power, for the stat. of 25 E. 3, dothe not give it hym.

He may indenize out of Parliament, but he cannot naturalize but in Parliament.

To impose is one of the greatest matters which may tend to the greatest good or hurt of the subjects. And therefore fitt to be refferd to his soveraigne power in Parliament.

[a] This speech is printed in the State Trials, ii. 477, as Yelverton's.

All will grante that the Kinge cannot take the goods of his subjects without theyre consent.

The Kings of England have wrought many devises to impeach this (as by comission, 22 ass.). Presented that J. by force of a comission had taken the good of J.

Petition in Parleament against theise comissions: 21 E. 3,[a] and 20 E. 3, as a greevance.

17 H. 8. The like put in practise; but theise commissions were all revoked, and adjudged to be [voyd.[b]]

So this is the like commission to the now Lord Treasurer, which carries the force of a lawe to alter the property of his subjects' good.

Loanes condemned 31 E. 1 or E. 3.[c]

Benevolences condemned in Parliament 1 R. 3.

To alter lawes and to impose are *convertabilia*. He that may doe the one may doe the other. Fortescue, cap. 9. *Si leges mutare possit, potest etiam tallagia imponere.* So 36 chap.

Peregrinis impositionibus, *i.e.* new and unaccustomed; and theise impositions now sett are of that nature, and may well be soe called. The never like[d] heard of bothe for the impositions theymselves, and the maners of imposing.

If he may impose by way of penalty upon merchandises, then it followes that he may take the same course in all the goods of the subjects.

The lawe of 1 R. 3 makes mencion of new inventions, and dothe extend as well to the new name of penalty as the old name of benevolences.

2. Against the comon lawe.

Ob. But this power of the King never condemned by judgment.

[a] Rot. Parl. ii. 166. The other reference is probably erroneous; it is not in the printed speech.

[b] "Payd" in MS.

[c] Properly, 25 E. 3. St. Tr. ii. 485. See Rolls of Parl. ii. 239.

[d] Apparently a mistake for "the like never." In the printed report (p. 486) this argument is rejected in favour of an interpretation of "peregrinis impositionibus," as meaning "impositions upon traffick into and out of forrain countries." Did this unlucky idea strike Whitelocke as he was revising his speech?

Sol. Theise matters were never usually debated openly in corts. 2 E. 3, Bryton's case, a wrytt to stay the argument by a wrytt out of Parliament.

13 H. 4. Question concerning the office. Assumde in Parliament and a lawe made to make it voyd.

16 R. 2. A judgement given for prisage of the thyrd then [a] tonne of wynes. The judgment disannulled upon petition in Parliament.

1 El. Dyer. The booke sayes that the merchants did fynde theymselves agreeved, for that the Queen had sett that imposition by her absolute power, and not by Parliament.

Never any opinion in that case; and therefore it was against the Queene for if otherwise.

Ob. 39 E. 3. King John had custome *in portu* Southampton; but it doth not appear by what meanes he had it; in what right.

30 H. 8. Dyer. Custome by the Common lawe, *i. e.* wools, woolfells, and lether; and that the statute of 14 E. 3 [b] did abridge it; but now it appeares that it was first granted by Parliament; neither dothe the statute of 14 E. 3 abridge.

Granage due by prescription.

Ob. The King held the 3d. per libr. by his prerogative.

Sol. The first grant and contract 31 E. 1 good to this day. It was made by merchants aliens, who are governed by the lawe of nations, not by the municipall lawes of this England.

Also by the contynuance of that payment they receave a greate benefite, for they are dischardged of prisage.

Scacc. In 31 E. 1, offer of the King to denisons; if any one would intertayne that contract, that they might have the like liberty: *si gratanter solvere voluerint, &c.*

3. Statutes.

[a] This is unintelligible as it stands. The judgment was that the King might have two tons out of every ship bringing twenty tons. The old custom only allowed one ton unless the ship brought at least thirty tons. Rolls of Parl. iii. 477.

[b] Stat. 1, cap. 21.

Equall complaynt of impositions upon all comodities as upon the 3 staple comodities.

Magna Charta: nisi antea publicè prohibitum fuerit. Publicè, that may be by Parliament, also it is meant especially of merchant strangers.

11 H. 3[a] and 25 E. 1, *de tallagio non imponendo* (aydes 2 E. 1, cap. 7[b]). The petition contayned divers grevances, and also the imposition of woolle of 40s. and therefore "no such things" extend to other thinges.

Math. Westmonaster. *Postulaverunt quod non voluntarias exactiones Rex exigeret.* And he sayes that the subjects stood upon theyre right that the Kinge could not impose without consent of Parliament.

The Comons did petition, but the proclamation to publish this grant 26 E. 1. *Cum remiserimus ad instantiam comunitatis nobis nuper in subsidium guerræ nostræ concessum.*

Saving to us our custome, woolse, woollfelts, and leather; whereas the petition was onely concerning the imposition upon wools.

26 E. 1. You shall not take this custome of woolls, *vel ullam aliam, &c.*

The printer hathe printed this chapter by chapters and sections; but, in the record, it is one entier statute, and so it extends to all that was said before, ayde, *mises, et prises*, taskes in English, but the word is *mises* in French.

Ob. 26 E. 1. *Accompt de* 4*s.*[c] *de tonne de vino Britariaco.*

Sol. The accompt is once from the 18 of May, 16 E. 1, to June *in anno* 22 E. 1; but no accompt to be found in Scacc. for the tyme after 25 E. 1.

Ob. 5 E. 2. The ordinance, which is a direct statute of itself.

[*Sol.*] It was made upon a commission granted to 33 pieres *in anno* 3° upon a reconciliation made betweene the Kinge and his subjects by the Pope's legate.

[a] Perhaps the Magna Charta of 9 Henry III.
[b] Confirm. Cart. cap. 6.
[c] St. Tr. ii. 496, has 40*s.*

The King misliked not this statute; tooke an oathe to observe theyme, and all the commissioners. All historiographers conceve theise as good lawes.

If it be not an act of Parliament, yet it was the opinion of 33 Lords, and a greate number of the Comons, which is more to be respected then any man's opinion now lyving to the contrary.

Ob. But Edward the 2 did impose after.

Sol. That was *per viam mutui*, and yet the Kinge was content to dischardge it (except comodities[a]); and after, in 12 E. 2, he gave theyme assurance of allowance out of theyre ordinary customes.

14 E. 3,[b] 21. Explaned by 15 E. 3. Paying the ancient customes.

14 E. 3,[c] cap. 1. To the same purpose that the first was, saving that one was by way of enrollment, and the other by way of chartre.

Ob. But the Comons pray to be discharged.

Sol. So the Kinge prayes; but the words of the petition import a right of the subjects.

Ob. Custome, subsidy, and other proffits.[d]

Sol. He hathe other proffits, tronage, mesnage, which may well supplie those words.

27 E. 3. Stat. 2, cap. 2. For the assurance of the merchant strangers, and others.

38 E. 3, cap. 2. All may buy and sell all merchandises paying the subsidies and customes thearof due.

22 H. 8.[e] A table to be sett up in all custome howses, that nothing be exacted more then of old tyme.

4. *Contra morem majorum.*

i. Impositions made heretofore { In 3 kinges' tymes. / In tymes of warre. / For a short tyme.

[a] *i.e.* the three commodities on which customs were set by Parliament.

[b] Stat. 1. [c] Stat. 2. [d] 14 E. 3, stat. 2, cap. 2.

[e] Cap. 8.

ii. Never any imposition complayned of in Parliament but redressed:—

1. Either by absolute discharging theyme, 38 *et* 45 E. 3.

2. By intreating he might hold it for a tyme, 21 E. 3.

3. Taking that by Parliament which he had sett before, 25 E. 3.

All which is an expresse disclaymer, and departure of his right.

iii. Observation. The Kinges acknowledgment of the right of the subject, 31 E. 1. Not to take it of his subjects *nisi gratanter*.

20[a] E. 3. His letters to the Archbishop, they were *onera ex presumptione*, not *de jure:* impositions not duely made.

iv. Observation. All complayned of by the Comons by way of right. Not as greavous otherwise. 21 E. 3; num. 10,[b] 25 E. 3.

v. Never any qualification of any imposition; but absolutely taken away *in toto*, as 2s. per tonne, 21 E. 3; 50 E. 3, numb. 63,[c] ii d. for tronage and mesnage, by which the King had 100 li. per ann.

vi. The punishment of those that have devised this course, 50 E. 3. Lord Latimer accused for that he did procure impositions to be sett without assent of Parliament. The accusation is of other things, but the judgment makes mencion onely of that falt.

vii. A cessation of impositions without Parliament *a temp. E.* 3 *usque temporibus Mariæ*, and all by Parliament. To that which was sayd that the Kinge needed it not by reason of the custome of Callys. The statute of 27 H. 6 proves the contrary; for at that tyme it was but 12,000 li. And it appeares that, at that tyme, 28 H. 6,[d] the King was indebted nere 400,000 li. and therfore he had need of impositions. Onely the imposition of clothe sett by Queen Mary. 2 impositions of wiynes *temp.* Eliz. Imposition of allom.

viii. The taking of theise customes by statute [of] tonnage and pondage. *Temp.* H. 4 *et* 5, condicions that they should not be taken but by new grants in Parliament. Now, prayer that the merchants may be well used.

[a] St. Tr. ii. 504, "In the twelfth yeere."

[b] Number 11. Rolls of Parl. ii. 166.

[c] "Numb. 163." Rolls of Parl. ii. 351.

[d] Cap. 2.

Ob. He may restrayne the person.

Sol. He may restrayne the person (if he will attempt any thinge against the realme); but the persons of merchants are free.

2. Prohibitions and restraynts, *temp.* 1, before the statute of 12 E. 3, and the succeeding statutes. No restraynts from E. 1 tyme till Queene Maryes tyme, but one, which was 17 H. 6. All restraynts by Act of Parliament, 27 H. 6, 4 E. 4.

Motion, that what possibly may be granted unto the King without greate prejudice to the Comonwealth, he may have it by Act of Parliament with all our good wills. And so he may be satisfied, and the right and liberty of the subject cleared.

Upon the end of this argument, Sir Walter Cope[a] made a motion that wee might be petitioneres to His Majesty, to referre the impositions present to a Comittee of Parliament to reforme the same where nede is: and that His Highness would be pleased that an Act may passe that no impositions may be hearafter sett but by Parliament: which motion was debated in the afternoone, the same day.

He was of opinion that the Kinge in tyme of peace cannot im- Mr. Hyde.
pose upon his subjects' goods transported and imported.

One sayd he may impose by lawe of nations. Another sayd it shalbe by way of penalty. Another by imposition by increase of custome. Another sayes that the first custome was by lymitacion of the King, because it appeares not that it was given by Act of Parliament.

2 H. 5. A generall restraynt of merchants is unlawfull.

Moved that a lawe of explanacion may be made that theise impositions be unlawfull.

And yet by Parliament to lay some impositions upon matters of superfluities.

Not determinable by the lawe of nations. Reason of state is the Carlton.

[a] Member for Westminster. He would hardly have made this motion unless he had previously obtained the consent of the King.

[b] There is a full report of this speech of Carleton's in the State Paper Office, James I. Dom. lv. 55. No name is there assigned to it. It is as follows:—

"This last speach (by Mr. Hyde) hathe almost broken the atonement which was made

preservation of state, and gives free trade to all. Not impose penalties to gett money.

betwixt us before dynner, and engaged us againe in a new conflict, which makes me stand up, because I was one of the loose shott that drew on the skirmish which hath bin entertayned with great strength on both sides for many daies together, and if I coulde as well healpe to take up the quarrell, I should think my labour well imployed. But our quarrel is not mortall, for it is not for Socrates or for Plato, but *amica veritas* is the mistris wee all make love to, and there is no art, no invention, no study, no endeavour omitted to imbrace this truth. But *veritas* is said to be *in alto*, not as Democritus would have it, in a well. But where a gentleman (Mr. Tate) here said he had his footing in the clouds, or in the sea, and more properly here, in the sea, for there it is where we fish for Mr. Solicitor's Peterpenny: so as the land is quite freed from this question, every man concluding that, in this kinde, prerogative hath there no power. In like sorte is this question freed from all other discourse, save only the lawes of the land. It is not reason of state that must rule it. If it do, you must know that this reason of state is not such a monster as a gentleman (Mr. Yelverton) here made it. Reason of state is preservation of the state, and not the ruyne of the state; and it may be this was the reason why he that made this discourse would free his profession from causing a judgment of this kinde, which if it should continue will, in all men's judgments, bring the state to ruyne. But to bring him within his owne compasse, I would have him know that wee are so farr from making this matter of imposicions reason of state, that even in the 3d. which is imposed upon the stranger merchant above our owne, when we are questioned about it by strangers, we have no other answer but this, 'Nolumus leges Angliæ mutare.' It is therefore in the law of the land where we must seek the truth of this matter, and for this purpose wee have searched the records, sought presidents, examined judgments; the Common Lawe hath bin layd open unto us by divers very learned in the lawes; and statutes here openly read, and diversly interpreted. Now, as all truth is said to be contayned in two monosillables, *est* and *non*; if in this variety of opinion you should come to the question of I or No, I must be silent, and so (I am sure) must be more besides myself, if they will rightly understand the state of the question not to be of *bonum* and *malum*, but of *verum* and *falsum*, and not speak as in their wishes and desires, but as in their judgments and understandings touching the point in law they are satisfied. I would therefore wave this question touching the right, which is but an appendix upon the other touching the greevance, and would make this the question at the present how to frame our petition to the King touching the case of this greevance, how to be safely and speedyly cured of this disease, in which we have told the King how much we languishe; wherein being no good physitian, I must do as is said of empirikes, with whome though *morbi notitia* be *extra artem*, yet *medicina* is *intra usum*, though the knowledg of the disease be without the compasse of their skill, yet is the cure within their practise, and what hath bin the practise of former times in this self same case we find in our records and presidents with a *probatum est* upon every one: for never were there complaints of our ancestors presented to any kings His Majesty's predecessors but they were eased of their greevances. Now the worst word that is given in all those

Morbi notitia est extra artem, but *medicina est intra usum*.
In Spayne the Kinge is bound in all his actions.

petitions (as was well noted by a grave gentleman, Mr. Atturnie) touching theise new imposicions, is that they are called maltolts, which is not alwaies taken in the worser parte; for this name is current in Normandy from whence we fetcht this language, and there are officers for this purpose, which beare the name of maltoultiers, and this I collect further out of one of their lawyers, who, because this name hath an ill sound, would cleere the King of it by a distinction, saying that maltolts are *choses mal tollues*, not *mal taxées*, which are things wrongfully taken by the officers, not ill taxed by the King. I account this distinction more subtile then significant, yet I alleage it to shew that when subjects doe speak of the actions of a prince, how religious they are in preserving their honors. And now I speak of forraine affaires, I will make bold to expresse a conceite which this present debate touching the lawes of this land hath suggested unto me. I have very much marvaled how it comes to passe that in Spaine, where all the actions of the prince, great and small, are bounded and lymitted by expresse statutes to ty prerogative, and to sett the subject at liberty. In France, on the contrary, the King's edict verefied by a sedentary court of Parlament, hath the force of a law, so as there prerogative hath no limitts, and the subject hath little liberty; yet, notwithstanding, betweene these extremes of the strictnes of the one, and the licence of the other, the subject in both places is equally grieved, for in Spaine there is not only taking at sea, but they have *puertos seccos*, in which at every passage betwene province and province there are exactions. In France they have a *pancarte* at every gate, where there is a custome taken of every particular that comes to markett. Betwixt both these the protection of our lawes and the wisdome of them hath hitherto mainteyned us in a farr better estate; and I do liken lawes in this case to one, whereof if the meache be made to small they will break, if to great they will hold nothing. And in our lawes, though prerogative be not so hembed in, but that it may break out upon extraordinary occasions, as *tempore guerræ*, as our lawyers say, and such like; yet is it so entangled as it can not goe at pleasure; and we may observe in the whole course of petitions and statutes touching new impositions, that they do not murmure or grumble, as one (Mr. Yelverton) sayd here in scorne (as it semed) of his owne profession, but they do in a mannerly stile tell the King how farr he may stretch his prerogative, and the subject clayme his liberty. I would therefore sett them downe as patterne to our proceedings, which may well warrant our courses, and assure us of the like successe they formerly had. Yet might we be frighted from this course by somewhat here lately spoken, taking advantage of those peticions to our prejudice; 'the Comons pray,' therefore they complaine only of the excesse. I answere these arguments with a *non sequitur*, and there is no reason an ill argument should putt us out of a good course. But it may be said, wee must doe more then our predecessors, because there is more done in our prejudice by meanes of the judgment in the Exchequer, then was done against them. This I cannot deny, and therefore I would do thus much more. To seeke to reverse this judgment, we have promised we would not, but I would desire that it might not be drawen in consequence to other things, and that it

In France the Kinge is at liberty to doe what he list. But in bothe contryes there are tolles and taking at every gate. In Spayne they are called *puertos seccos*.

SIR ROGER OWEN.

Theise impositions are not agreeable to the lawe of nations, nor to the practise of modern nations, nor the law of the land.

Proved by the { definition of the law of nations. reasons.

Definition. To feare God, to honor the prince, to repell force by force, which some say to be parcell of the lawe of nature.

But all agree that it is by the lawe of nations that embassadors shalbe well used.

Properties of goods, by lawe of nations, according to Austyn.

[1]. Therefore it is contrary to the lawe of nations to take away the property of man's goods.

2. This thing may be remedied by Act of Parliament, *ergo*, not by lawe of nations.

3. Private men may have ports and impositions bothe in France and other kingdomes, as Spayne, Molinæus, &c.

So in England private men had theyme, and not by grant of the Kinge. The Abbot had the porte of St. Austin's at Canterbury.

should not be heald as a determination of the right, which will bring us without further question into the same state we were before the judgment. But, happily, some will say, if we stay there and omitt the question of the right, what then have we gained by all this dispute? I will shew you what wee have gayned, or rather regayned, a liberty of disputing here *de quovis subjecto* without controlment; and if we will look back to former tymes for which we need not search records, we may then think what we have gayned; and as prerogative is *summi fastigii vocabulum*, which we have had free liberty to consider and examine, so is it now a high point of discretion how to use this liberty. Secondly, we have gayned this much, that we may now boldly make this matter a greevance, which we could not have done so long as that judgment in the Exchequer stoode for lawe. Lastly, we have now an opportunity to wyn the King's favour in a matter wherein we are partly engaged by promise. In our petition presented to the King concerning this matter, we say, that if he would give us liberty to treate of it, we would do it with that order and moderation, as should give His Majesty contentment. The King hereupon gave us free liberty. We have hitherto proceeded in good order: it now rests that wee should use our moderation, which if we doe the King would surely be well contented, and we in all likelyhood have ease of our grievances."

The Duke of Cornwall had ports and customes; without chartre of the Kinge, but by prescription: *igitur* not by the law of nations. It is not *jus majestatis*.

13 Rom. Custome is meant of the custome due to the Romayne Emperor.

Zacheus no customer, but a gatherer of polle money at Jerico, farre from the sea. Justynus, 36 lib. Also they payd a custome for ballme in that contry, which growes in that contry; and therefore Joseph Ben Gorion sayd Jerico signified balmie.

The peny found by Peter was a polle peny: no sea peny: and therefore he may well loose nett and his labour.

1 Kings, x. 28. Salomon had a custome upon all that came out of Egipt.

Salomon [a] married the Kinge of Egipt's daughter, and had theyme in Egipt in marriage.

Tremelius sayth he had the customes in Jury, but it was as a tolle for passing throughe his contry.

Græcian monarchy.

Lib. 4. Alexander ab Alexandro setts downe what customes are due. Plato, lib. 8, forbids all customes to be customes.

Romans.

Athenæus.
Livy, 16.
Plutarch; Pompey.
Plyny.

} Shew that the begyning of impositions was for the suppressing of pyrats.

Moderne policy.

The Romans had customes, but of those onely whome they conquered; but not in Rome of theyre subjects.

France.

Edict, 1595. The last Kinge claymed it as anciently belonging to hym in specie. So did Carolus 8.

[a] Marginal note, "P. Martyr."

But this was onely in tyme of warre. Mr. Bretton.[a]

All the impositions in France given to the King of France by Act of Parliament, 1555.[b] *Vide* Frossard, and then also they gave the gable of salt.

Munster[c] sayes the same.

Portugall and Spayne.

In Portugall 2 sorts of custome howses: *casa de ingate*, and *casa de outgate.*

None might trade into the Indies but by his lycence, and therefore he myght impose.

In Charles the Greate's lawes it appears they had theyme not.

Spayne.

In temp. Alphonso II. an imposition of the x^th^ parte of all merchandise in specie granted by Act of Parliament.

Germany.

The Emperor, nor any prince in Germany, cannot impose. It appears by theyre authors.

Lowe Contries.

They pay to theymselves.

Florance.

That State was an aristocratie, and the Dukes of Medices did usurpe. A proverbe, *Qui medicè vivit, miserè vivit.*

Holland.

He hathe customes from Strangers, but not from his owne subjects.

England.

The Kinge hathe not the customes by the comon lawe and constitution of this kingdome.

[a] This is written in the MS. as if it were the name of a new speaker. It is plain, however, from an observation of Sir E. Sandys, on the 18th July (C. J. i. 451), that this was not the case. Perhaps Owen said, "in time of war with Brittany."

[b] In 1355.

[c] Is this intended for Monstrelet?

Strabo, lib. 4. The Brytains payd custome to the Romaine Emperors.

But the Saxons conquered the Romans. They altred the lawes, they altred the language, they altred the religions.

Therefore wee must prove our customes to proceed from the Saxons.

The Saxons devyded amongst theyme the kingdome. A Heptarchy; some of theyme had no ports.

Beda wrytes of merchants, but speakes no customes.

Malmesbury speakes of no customes, but of merchants. He wrytes that Canutus gott priviledge for the merchants of the Pope and Emperor Conradus.

Danegeld, an ancient custome, out of every hide of land to mayntayne a navy against the sea: no custome of merchandise.

In Edw. the Confessor's [time] customes were payd to the lords of ports by prescription, *vide* Domesday. Canterbury: the church of St. Austyn had the customes of that porte by prescription. And one tooke custome of merchants strangers in Edw. the Confessor's tyme, and was punished in the Conqueror's tyme.

Temp. Alfredi. The custome that M^{r} Tate spake of, a theolonium for a ferry before the bridge was made.

In his tyme also the Kinge had 2 parts of the custome at Billingsgate, and the Bishop of London had the 3 parte; *vide* Hakluyte, lib. voyages.

Temp. R. 2: 2 acts not printed. *Anno* 5 Rich. 2: a grant of subsidy of merchandise from Candlemas after, for a tyme (the former grant ending at Christmas before), because if it should be claymed of right, it might tend to the overthrowe of the subjects.

Another record 9 R. 2, an Act of Parliament containing a grant of a 15th and a half &c. *Item*, that there be an intermission for a tyme of the customes of woolls, woolfells and lether to the end it be not drawne in prejudice.

Apollonius Thyanæus. What custome shall we have for vertue.

MR. GORE.[a] The imposition upon merchandise more concernes us, being an island, more important then upon inland comodities for the defence of the realme.

In Lowe Contries they rather will impose upon theymselves then upon merchandises. So that wee [have] theyre butter, cheese, at an easy a rate as they may have theyme at home.

MR. FINCH.[b] Whither the King may make a voluntary impositions ?

1. Whether by the comon lawe?

2. Whither he be restrayned by any act?

3. Whither the King can be bound by any act to be made?

Thoe upon a restraynte for a tyme, he may impose for a tyme, much more for ever.

He may dispence with a lawe for ever because the lawe is for ever.

The King may make a bulwark in any land, but not take money not to doe it.

9 E. 4. The King hathe power onely to make warre. If all the subjects will make warre without the Kinge, it is no warre.

Ob. Sore greved proves an excesse.

Sol. Then the King would not [have] remitted the whole but parte. But he took away the whole. Droyturell maletolls were called onely those that were granted by the Parliament.

14 E. 3. Nor that they shall not be pressed to make any ayd, &c.

MR. BROCKE.[c] 2 objections. { prerogative and estate of a Kinge. / estate and liberty of the subject, and trade of traffique.

Arguments drawne from every thinge; complaynte; sylence, &c.

1. Whither he impose upon Englishmen exporting English comodities?

2. Whither he may impose upon Englishmen importing forrayne comodities. Bate's case?

[a] Richard Gore, merchant, member for the City of London.

[b] Heneage Finch, member for Rye ; Speaker in the first Parliament of Charles I.

[c] Probably William Brook, member for St. Ive's. Giles Brook was member for Liverpool, and an alderman. The name of the former is spelled Brock in the list in the State Paper Office.

3. Whether he may impose upon strangers?

4. Whether he be restrayned by any Acts of Parliament?

Answer to the objections.

Yelverton. The King by letters patents may alter *commune preceptum legis*. 30 E. 3 gave liberty to an alien to have a triall *per medietatem linguæ*.

The Chartre not allowed.

But that he cannot doe, cleare by 8 H. 4.

Ob. That the comon lawe cannot judge, but to be judged by the law of merchants.

Sol. 60 statutes concerning merchants: actions and judgments every terme.

Ob. The imposition is by way of penalty.

Sol. If it were so, it were altogether unjust, for that were to impose the fyne before the party be convicted of the contempt.

Neither is Bate's case according as he vouched. He as cold as any, yet the opinions were so strange to hym that they did make hym warm.

Answer to Mr. Solicitor. 1. Universal negative: no judgment.

Sol. On the other side, there was never any booke or record to prove that the King had such a power, *usque* 1 Eliz.

Greate clamour and exclamacion by the merchants. Fortescue, a Judge and a Councellor, &c. Harte, the first mover, the intention of the people. The Kings had no cause to speake of it. Never any like matter brought in question legally.

Yet 9 H. 6. Babington. That the Kinge hathe no inheritance in the custome.

Yea, but that was meant in the tonnage and pondage.

The great custome of London contaynes more the tonnage and pondage.

Peregrinis, *i. e.* strange, because new; as much as *novis impositionibus*.

2. Consideration. The 3d. per libr. payd by merchants strangers.

The merchants strangers a corporacion for ought wee knowe. *Deo*

et ecclesiæ, 6 E. 3, Archbishop de York's case. This grante is cyted to be good.

They have contracted with the Kinge, and they receave a benefit.

That grante confirmed, 27 E. 3. Recites that it was confirmed, &c. And that the chartre be holden.

3. No petition ever made for forrayne comodities. The subject made no petition for strangers because they had no right, they were bond by theyre contract.

4. Statutes of tonnage and pondage upon condition, which condition proves a right.[a]

It proves no right. The King being restrayned by law, and yet impositions being demanded. They had reason to anex a condition.

It was the meaning of the Parliament to kepe the subjects in as good case in 10 Eliz. as before, yet they turned the condition into a petition out of respect to the Queen.

5. No restraynt or impositions sett, but shortly after complayned of and taken away.

6. The King needed no imposition *a temp.* E. 3, *usque Mar.*

12 R. 2, a staple apoynted to be kept at Callys.

Ric. 2, poore.

King H. 6, so poore as he was forced to make acts of resumption.

King E. 4 devised benevolences.

Civell warres. Ric. 2, no warres. Hen. 5, E. 4, H. 7, H. 8, all had peace, and yet none of theyme imposed.

Mr. Attorney. *Jura majestatis.* If theise be incident to a Kinge then all Kinges have it. But the King of England hathe not all theise.—Fortescue and Sir Tho. Smythe.

Theise things cannot be presumed to be a habite in the Kinge, because they be not necessarily incident to regality.

The prooffe lies not on our syde, because wee have the possession of our goods.

Ob. He sayd that the lawes upon complaynt inferr a duety. They prayed a release, *igitur* theyre was a debt.

[a] *i. e.* "in the King."

Sol. They meant a discharge. It is not to be meant of a release legall.

Many wrongfully troubled, yet are content to have a release.

30 H. 8. Dyer. One says, by the way, *il semble* that the customes are due by the comon lawe. If this were soe, yet it is meant of those customes which were mencioned 14 E. 3.

The subjects are *in jure passivo*, that is, because wee suffer; and he is *in jure activo* because he demands. But that proves no right.

Ob. The Kinge may restrayne, *igitur*, he may impose. Restraynt the mother of impositions.

Sol. No restraynt in theise impositions. If the King say, "if you goe over sea you shall pay me 100 li." no action lies for it. By the same reason he canne have no action for an imposition upon his goods by way of penalty.

The King not lord of all the ports, 2 E. 3, fol. 7. Yarmouth and Southampton. *Et Bracton, publica sunt omnia flumina et portus.*

Costome of granage of salt.

Archbishop of York prescribed to have pre-emption.

By the comon lawe he cannot impose for 3 reasons.

An imposition dothe amount to an alteration of the lawe.

1. Whatsoever dothe intitle the Kinge to a new action more then the lawe allowes hym is an alteracion of the lawe. But by this imposition the Kinge dothe give hymself an action which he had not before.

2. Also this imposition dothe charge the person of the subject, which was free by the lawe and by Magna Charta. You cannot punish hym for doing that which is lawfull. But it is lawfull for hym to go over and trade 13 El. by the comon lawe.

3. If he myht sett an imposition by his absolute power, then he might gett an imposition by his absolute power by seising his goods and imprisoning his body. But, if you cannot gett it but by the legall power, therefore he cannot sett it by his absolute power.

4. If the Judges may judge the imposition by the legall power, then the absolute power is controllable by the legall power. And therefore he may not sett it by his absolute power.

MR. HUDSON [?]

13 H. 4 gave opinion, the King's power is absolute when it is for the good of the Comonwealth; otherwise, when it is for the hurt of the Comonwealth.

So, to grante a fayre or a market, the Kinge hathe an absolute power; but if it be *ad nocumentum alterius mercati &c.*, it is not good.

The judges may be judges in theise cases, what is good for the comon wealth, if any complayne. But, if none complayne, the comonwealth when it is gathered together in Parliament may take a course to redress it, &c.

Motion concerning the petition.

Some move that wee might present a petition of grace; some, a petition of right; and some, of greevance.

A forme offred by Sir JOHN HOLLYS, and not allowed.

Mr. NICHOLAS HIDE moved that we might preferre a petition of right: but then the right must be first decyded by question, otherwise wee shall betray the cause.

A subcommittee chosen to frame a petition, without making a question of the right, &c.

[Whilst these debates were occupying the Commons, the House of Lords had not been idle in pressing on the contract for Wardship and Tenures. On Monday, June 18, they had received a message from the Lower House requesting them to give them information whether anything would be yielded besides the ten points, what was the lowest price required, and what project might be propounded for levying it otherwise than upon the land. (L. J. ii. 616). At Salisbury's motion, the matter was referred to the King, who asked for delay. His reply was apparently given on Monday, June 25. On the following day it was reported through Salisbury. (L. J. ii. 624.) He referred the whole question to the wisdom of the Lords, except that he reserved to himself to fix the amount with which he would be satisfied. This he would inform them of on the following morning. This answer must have been contained in the letter which was written on Tuesday morning and which is referred to in the following notes of the conference held in the afternoon of Tuesday, June 26.]

A declaracion of the proceedings. Conference.a

The King made knowne his wants in 2 respects.

Those that have divulged that a demand was made that must make a separation betweene the Subject and the King, did either look for a Tiberius or Sejanus.

20 libells he could have sent us.

Support was never of his nominacion. If the demands of the King seeme strange; remember that you have made the strangest demands that ever was made by Subjects to theyre Kinge.

He desyred wee might speake *stilo veteri.*

You desyre to knowe:

1. Whither wee have thought of any more to be propounded for the ease of the Subject.

2. What will be the downfall of the demande.

Answer from the Kinge in wryting. David: this shalbe putt in wryting that all that come after may prayse the Lord. *Litera scripta manet.*

The King's letter. "My Lords, I lett you knowe according to my promise, that I crave 140,000 li. per annum, in retribution of such things as I meane to bargaine for at this Parleament; cleare in addicion to that I formerly receaved, by the natures of those things that are now to be bargayned for. And this I would have you to informe the Comittee of the Lower Howse."

3 heads: { what more? / what price? / what project of levying?

Answer: This price is of the 10 things propounded so long [?] as I need not breake my braynes to devise more things.

The 7 heads held valuable. Martin. [?]

All deserve an increase of a standing revenue. Treasurer.

He dothe not meane to buy subsidies.

[a] I have inserted the report here out of its chronological order, to avoid interrupting the notes of the debate on Impositions. In the MS. it stands by itself at the end of the volume, as if the notes had been found after the rest of the MS. was copied.

1. Prescription against the King; valuable.
2. Lessees of the King free from forfeit.
3. Purvayance; a greate benefite.
4. Construction of the King's grants.

Ubi paupertas manet, potestas desinit.

CHANCELLOR. Thoe you have no certayne gayne, yet you purchase your owne dischardge.

TREASURER. You must pay somethinge for the honor and power, beside the profitt.

CROFTS. Fines upon fynes and recoveries, &c.

TREASURER. Offer forfeiture by outlaries. The detts to be payd first, and the Kinge to have the rest.[a]

Somethinge to be devised that may be beneficiall to the generality of the subjects.

Matter of impositions. Home comodities when they are landed are naturalized.

[The following is on the following page, and perhaps represents the conclusion of this Conference.]

Matters of ease demanded and to be propounded.

1. 60 years' possession of the Subject.
2. No forfeiture of leases for non-payment of rent.
3. The lease made upon surrender not to be impeached for any defect in the surrender.
4. Upon information of intrusion, and Not Guilty pleded, the defendent not to be put out of possession if he had one yeares possession.
5. Informacions upon penall laws.
6. Purveayence to be taken away, and a market to be kept at Cort gate.
7. Old debts to be pardoned *ante* 30 Eliz. And all sued by the King for debts may plede that it was not sued for 10 years before.

[a] The following words are crossed out: "Meanes to levy."

8. All fines due to the King upon any alienacion by fine or recovery to be taken away, howsoever the land be held.

9. Favorable construction of letters patents.

The some demanded is too highe.

Not unwilling to rise, if the fall be such as wee may effect.

Wee doe not think it fitt to lay a greater burthen upon land then 100,000*l.* per annum.

[The proceedings at this Conference being reported on Wednesday, June 27, the question of the amount of the support, and all matters connected with it, was referred to the Grand Committee. (C. J. i. 444, and Harl. MS. 777, fol. 50 b.) On Saturday, July 7, the grievances of the Commons were presented to the King.[a] Both Houses were summoned to Whitehall on Tuesday, July 10, where an answer was given to some of the grievances, the King reserving the others for future consideration, but giving a promise that he would reply before the end of the session. On Wednesday, July 11, it was resolved to grant one subsidy and one fifteenth. The Grand Committee reported, Friday, July 15, in favour of offering as support 180,000*l.* This offer was laid before the Lords on Monday, July 16. Salisbury persuaded the King to abate something from his former demand of

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[a] "All this debate," on Impositions, "was at Grand Committees; . . . and, when the powder was all spent on both sides, we grew in the end to this peaceable conclusion,—not to put the question of the right to condemn hereby the judgment of the Exchequer in the matter of currants, whereof all this is the consequence, but to frame a Petition by way of grievance, implying the right, though not in express terms, which was accordingly done; and so the rest of the grievances, which stayed only for this, were drawn up into a large scroll of parchment (which the King said would serve for a piece of tapestry), and so presented by the Solicitor, accompanied by twenty of the House.

"The answer was delivered by the King himself, both the Houses assembled in the Banqueting House, on Tuesday last, where he divided matters of government from matters of profit. Those of government he would take time in; those of profit, which were impositions of several natures, he presently resolved, and fully to the satisfaction of that House in all particulars, save only in the new impositions, in which, though he promised to give way to a Bill that never any hereafter should be laid but with the grant of Parliament, yet, because he did not as freely take away all which were last imposed, they went away ill satisfied, which they testified in their next day's meeting, when as subsidies were proposed, and no more could be obtained but one subsidy and a single fifteen, which a knavish burgess said, but in the hearing of few, would do the King much good, and serve as a *subpœna ad melius respondendum.*" Carleton to Edmonds: Court and Times of James I. i. 122. The petition of grievances itself is printed in State Trials, ii. 519. An account of the proceedings at Whitehall will be found in Appendix B.

220,000*l.*; and on Tuesday, July 17, requested the Commons to agree to 200,000*l.* This proposal was immediately upon the return of the Committee put to the vote, and accepted by a majority of 60 "or thereabouts." (Harl. MS. 777, fol. 54 a.) On the same day, a Bill against Impositions,[a] which had been brought in in consequence of the King's speech at Whitehall, was read a third time, and sent up to the Lords, who gave it a first reading on Friday, July 20. It never reached a second reading. On Thursday, July 19, the Commons notified to the Lords their acceptance of the King's last proposal. After propounding some additional concessions which they wished to see granted, they "moved that their Lordships would join with" them "to levy it with least disquiet to the State, and not to charge the land so far." (Harl. MS. 777, fol. 56 b.) Salisbury told them that the bargain was accepted, and that the manner in which the sum was to be levied must be left to themselves.[b] On Saturday, July 21, a memorial of the contract was presented by the Commons to the Lords. On Monday, July 23, it was ordered by the House of Lords that the memorial should be accepted, and, together with a statement of their own satisfaction with it, should be entered in their Journals. (L. J. ii. 660.) The concessions to be made by the King were enumerated, and the sum to be offered for them was stated. The manner of levying was reserved for consideration in the next session. It was only said that it should "be stable and certain to His Majesty, and convenient for His Majesty's officers to receive and gather it." It was added that nothing should be levied upon "ordinary victual, *videlicet*, bread, beer, and corn, nor upon" the "handy labours" of the meaner sort.

In the afternoon of the same day the King, after giving an answer to the grievances which still remained without a reply (L. J. ii. 658), prorogued Parliament.]

[I cannot assign any date to the speech reported in the following notes. Sir Stephen Proctor was accused of vexatious conduct in executing a commission for levying fines upon penal statutes.]

Sir Stephen Procter's offences.

MR. FR. MOORE[c] sayd they were offences in effect that deserved death, but not offences in law. As the using of a seale in the name of the King with the crowne on: treason in effect, but not treason in law. So the taking of a poore man's cattell out of his ground by

[a] See Appendix C.

[b] "You must not leave this doubtfulnesse, that the contract is not alreadie made. *De modo*, for the leavy consult with whome you will. We have that from you that is obligatorie for whose good, from you we take no notice. You are a nomber competent that have made the conclusion, and that must be binding to you. If anie be gon from you it was theire fault." (Harl. MS. 777, fol. 57 b.) Salisbury was evidently afraid lest the bargain should be repudiated, as being concluded in a thin House.

[c] Member for Reading.

his servants by his comandment (pretending that his name was in his schedule as a debtor to the Kinge, where in deed he was not), was felony in effect, but not felony in law; for that they did it not secretly with a felonious intent, neither did he deny the having of theyme, but delivered theym back for xi li. which, as he pretended, was the debt due to the Kinge.

So the bynding of the cutpurse in Middlesex as a justice of peace, where he was not justice, was *premunire* in effect, but not in lawe.

Quere de eo.

But his advise was to drawe a bill enumerating all his offences, and to attaynt hym of a *premunire*.

One Pechey, *temp.* E. 3, was called in question in Parliament for ingrossing the sale of sweet wynes by colour of a patent; whearupon the patent was adjudged voyd, and he fined and imprisoned.

Hugh Despenser attaynted by Bill in Parliament, and after restored.

Others also were punished for buying debts due by the Kinge for a small some, and procuring the whole debts of the Kinge.

THE FIFTH SESSION

OF

THE FIRST PARLIAMENT OF JAMES I.

[The Session commenced on Tuesday, Oct. 16, 1610. On Tuesday, Oct. 23, a message was sent by the Lords to the Lower House, asking for a Conference on the Great Contract, to be held on Thursday, Oct. 25. Of this Conference no account is now known to exist. On Tuesday, Oct. 30, the Lord Chancellor informed the House of Lords that the Clerk of Parliament had received a letter from the Under Clerk of the Commons, demanding a copy of the King's answers to the grievances presented in the course of the last Session. Exception was taken to this on matter of form, but the copy was finally sent. This request looks as if the Commons were hesitating to proceed with the Contract unless a more satisfactory answer were given to their grievances. The day after the copy was sent down, they were summoned to Whitehall to listen to an address from the King: Wednesday, Oct. 31.]

Wensday, *Ult.* October.

Wee were before His Majesty at Whyte hall, at what tyme he made a speech unto us, blaming us for our slacknes and many delayes in the greate matter of contract; by meanes whearof his debts did dayly swell, and his wants increase upon hym. And therefore he requyred us upon our next. meeting to reviewe the memoriall agreed upon the end of the last session; and thereupon to resolve, and to send hym a resolute and a speedy answer whither wee would proceed with the contract: yea, or noe. And thearin, he sayd, he should be beholden unto us, thoe wee did deny to proceed; because then he might resolve upon some other course to be taken for supplie of his wants; for, he sayd, he was resolved to cutt his coate according to his cloathe, which he could not doe till he knewe what cloath he should have to make it of.

He told a story of the Frenchman that thanked the King for playnly denying hym his suyt, whearby he saved much charge and labour.

[What took place on the following days we have no means of knowing. The next notes refer to Saturday, Nov. 3.]

3 *November*, 1610.

An answer to the King framed and offred by Sir Maurice Berkley,[a] which, being read, was disliked as too ceremonious and complementicall, and not reall and actuall. The answer was to excuse our slownes by want of competent number. And that, if our demands be granted, and no more shall be imposed upon the land, His Majesty shall perceave that wee now are as constant to persever with the contract, as wee were forward to undertake it.

Sir Roger Owen.

Divers things to be provided for, otherwise he was unwilling the contract should proceed.

1. Our security to be provided for by a full answer to our grievances. No gap to be left open for the Kinge to impose upon his subjects.

2. Meanes to levy it to be such as it may be leaste burdensome to the subject.

3. Provision to be made that this 200,000 li. be not dobled nor trebled by inhansing of the coyne by the King.

4. Provision that the explanacion of doubts may be by Parliament; and that wee may have Parliaments hearafter, thoe the King's wants be fully supplied.

He sayd that the revenues of the abbeys dissolved, according to the old rent, was but 133,000 li., and he vouched Bishop Jewell for it.

5. Provision that this 200,000 li. per annum may not be alienated from the Crowne.

[On Monday, Nov. 5, a message was received from the King, which was taken into consideration on the following day.]

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[a] Member for Minehead.

5 November.

A message from His Majesty by the Speaker. His Majesty having by his speech in person, upon just and apparant reasons drawne from his necessities, requyred our resolution concerning the contract, thinks fitt to omitt nothing that may further our proceeding without mistaking, &c., or losse of tyme.

He is pleased to represent unto us the cleere mirrour of his hart, and to sett before us the essentiall parts of the contract, lest the taking of things by partes might induce any oblivion or distraction in the contemplation of the whole.

1. He declareth that it never was his intention, much less his agreement, to proceed fynally with the contract, except he might have aswell supplie as support, to disingage hymself from his debts. In reason, his debts must be first payd. His first demande for the supplie of his wants; and, after, the poynt of tenures, and the distinction of support and supplie, came in by our motion.

For his supplie, he expected to receave 500,000 li. thoe it be lesse then will pay his debts and sett him cleere.

The subsidy and 15ths last given not to be taken as parte of that some, by reason of his greate charge synce for the safety and honor of the State, and the increase of his wants.

He desyreth to knowe our meanings clearly what wee meane to doe in the supplie.

2. Upon what natures the support may be raysed. His purpose is that it may be certayne, firme, and stable, without the meaner sorte, and without diminution of his present proffitt.

The recompence of the present officers to proceed from us, but not from His Majesty, which is no greate matter, considering it depends upon theyre lives, and that it is not waranted [?] by the clause which gives us power to adde or diminish, because it takes proffitt from His Majesty.

And therefore he expects 200,000 li. *de claro, &c.*[a]

[a] See Appendix D, for the reasons by which the King was probably moved to change his ground.

6 *Nov.* 1610.

Sir Hierome Horsey[a] moved that wee might meete with the Lords to acquaint theyme with this message, and to desyre theyme to conferre it with the King's letter sent to theym last session, which they communicated unto us. And to knowe whether they will joyne with us in an answer to His Majesty, or els to doe it of our selves.

Mr. Brook dislikes the motion that the message should be compared with the letter, for that might give some discontent. His opinion was that the matter of supplie is the easiest [to] be resolved, and he wished it may be granted.

But if the King will stand to the 3 other points, he thinks the contract cannot goe forward.

1. Impossible for us to give an yearly recompence to the officers, for, as they fall, how shall the land be discharged?

2. It is impossible to rayse 200,000 li. out of the land onely;[b] the rest out of merchandise, and a running subsidy from the monied men.

3. Also it is not safe to bargaine except the impositions be cast into it; and that the King be restrayned from further imposing.

Sir Tho. Beomont. If wee goe forward wee are undone, charging the land so deeply as is desyred. And on the other side, if wee goe not forward, it is dangerous.

The liberty of the subjects much impeached. Magna Charta not now to be spoaken of.

The statutes of 5 E. 1 and E. 3, and the rest restrayning the King from imposing, not regarded at all.

The 36 statutes against purveyance to no purpose.

In matter of government how stands our case? The statute of 1

[a] Member for Bossiney.

[b] This looks as if the King had demanded that the whole 200,000*l.* should be raised out of the land. If he did, his speech has not been clearly reported. The same inference may be drawn from Sir T. Beaumont's speech.

El. was first intended to bridle the papists, and accordingly used in his knolledge, but now it is extended to all offences almost.

The wall betwixt the King and his subjects are his lawes. Now to what purpose are lawes, if his Majestie or his ministers will leape over or breake downe this wall?

He is charged by his contry to assent to goe forward with the bargaine, and to adde somethinge for supplie, so that the impositions and other our greavances may be cast in.

But, to yeald in this that is now desyred he cannot; and therefore he wished that wee might desyre His Majesty to give us leave to acquaint hym what wee intend, and are able to doe in the matters of supplie and support, and howe wee are willing it may be levied, and thearupon to acquaint us with his resolution.

MR. JAMES. He could not assent to the contract, except all the impositions were taken away, and all arbitrary formes of government, and restraynte of lawe by proclamation, without which wee may say as Peter did, "Maister, we have laboured all night, and have taken nothinge."

He wished he may never heare of the new Parliament phrase, "Wee must give supplie; wee must give support."

NICH. HYDE. The answer he wisheth may be plaine, upon theise condicions proposed wee cannot proceed with the contract.

SIR JO. HOLLYS wisheth that wee may not answer before wee have acquainted the Lords thearwith; and so to proceed to an answer with theyme or of our selves.

SIR ROBERT JOHNSON. He would not have putt it now to the question, but that rather wee should desyre His Majesty that wee may proceed in the contract, and that wee may have satisfactory assurance, and then no doubt wee shall yeald to any things that shallbe thought reasonable.

MR. HOSKYNS. Not fitt to conferre with the Lords, for the mene matter of supplie ought to proceed from us. No danger to proceede to the question, for it may please His Majesty to recommend it unto us agayne in the same state it was.

[a] Member for Monmouth.

Whearupon it was putt to the question, and so resolved that wee should not proceed upon theise condicions, *unâ voce*.

7 *et* 8 *Nov.*

And afterwards the answer was penned, and allowed of by the howse, consisting upon 4 partes.

1. Thanks to his Majesty (now as at the first) for giving us leave to treate of this matter of tenures, which wee did acknolledge to be a rare favour.

2. Thanks unto hym in that it hathe pleased hym to deale so clearly with us, and so farre to make knowne his intention unto us, that without losse of further tyme wee may the more speedily growe to a resolution.

3. To signify to His Highnes that, upon greate and mature deliberacion in the Howse, wee did resolve that wee cannot proceed in the contract according to his Majestie's last declaracion by our Speaker delivered unto us.

[4].[a] Lastly, to signify our willingnes and desyres in the contract.

But this was done with greate caution lest from thence might be inferred that wee did impute to His Majesty any contrariety betweene the memoriall and his last declaracion.

Neither was it thought fitt to say playnly that wee would willingly proceed according the memoriall, lest thearby wee should tie our selves too strictly to any inconveniences which might be drawne from thence.

To this His Majesty sent an answer by the Speaker on Wensday [14][b] Nov. that, sith wee could not proceed accordinge to his last declaracion, which was agreeable to his first intention, he did not see how wee should goe further in that buissines.

[A Conference had been demanded by the Lords.]

After, the same day, we mett the Lords, at what tyme the Lord Treasurer, Lord Northampton, and Lord Chancellor spake, which was reported to the Housę the day following by Mr. Solicitor.[c]

[a] "2" in MS. [b] "15" in MS.

[c] After this follows in the MS.: "A bill read against preaching, and publishing books against the lawes of the land, *sub penâ*, for the first offence, losse and forfeiture of bene-

LORD TREASURER'S speach consisted of 2 parts: 1 parte of forme, and a parte of matter.

1 parte of forme, to avoyd a scruple, lest wee should conceive it as a message from the King.

2. Matter devided into 3 parts:—

1. A delineation of the proceedings formerly [?].
2. A representacion how things are now.
3. A conclusion with certaine motions.

The King, like a skilfull archer, hathe sett up in the view of the Parliament the mark whearat he aymed.

He hathe caused his wants to be made knowne and the cause of his wants, more particulerly then experience hathe found fitt, in respect that the composition of the Parliament was such as what is spoaken there cannot possiblie be kept secreat.

The sacrifice that the Kinge desyred was such as Christe apoynted to be offered, a payer of doves, *sine gemitu*, and not like the sacrifice in the lawe, with strugling and resistance, and thearfore he made offer of retribucion to his subjects.

But theise are refused by us, not (as he was perswaded) for want of willingnes in the King to performe what he had offred, or of affection in his subjects; but diffidence and distrusts and feares, and distractions in opinion, like Jonathan's arrowes, some shott over, some [under],[a] and yet all with a good minde.

2. The Kinge now 50,000li. worse then he was at the beginning of the Parliament.

3. Motions. The Lords had taken into consideration *corpus cum causâ*, his wants with the cause thearof. They were all of opinion that it is not safe to leave hym unsupplied.

They did apoynte hym to acquainte us with some things which they wished that bothe Howses would joyne in petition for theyme to his Majestie, for the ease and good of his subjects.

fice and fellowshipps, and all ecclesiasticall dignities; and (if he be a lay man) the forfeiture of all his lands during his life to the lord of whom they be holden."

[a] "over" MS. Marginal note, "Motus trepidationis."

He sayd he would not have the King to thinke that when wants are voluntary supplies must be of necessity, and therafter those difficulties which have been used hearin may procure some good effect in His Majesty; which he did not doubt of; assuring hymself that he would be very carefull hearafter how he pressed his subjects, and yet if he did, he was farre from the opinion of the Jesuits that "*arma nostræ militiæ*" are "*solum preces et lacrimæ.*"

For his parte his hope and comfort was that he should never sitt in that place to use so many tautologies upon the like occasion, except it were upon some greate and apparent cause, whearin wee should be as forward as he.

The things to be desyred by bothe Houses.

1. 60 yeares' possession a barre against the King.

2. No lease to be avoyded for defect of security, or condicions broken.

3. Upon outlaries the creditor to be first satisfied before the King.

4. Respite of homage to be taken away.

5. Penall lawes to be reformed.

6. All obsolete lawes to be taken away.

7. Power to make lawes in Wales to be repealed.[a]

8. No imposition to be hearafter sett but by Parliament, and those that are to be taken as confirmed by Parliament.

Sir Dudley Diggs[b] reported my LORD OF NORTHAMPTON'S speeche.

It may seeme strange that those that travell to dyvers places may lodge in the same inne.

2 parts of his speeche. 1, Reasons to perswade us to supplie; and, 2, Answers to objections.

1. The hand in nature will defend the head. So the bees, &c.

2. The Prince's mayntenance dependeth upon this supplie.

3. The warre of Cleve.

4. His Majesties providence hearafter.

[a] Marginal note, "34;" *i. e.* 34 and 35 Henry VIII. cap. 59.

[b] Member for Tewkesbury.

1 *ob.* Our former princes have lived upon theyre owne revenues.

Sol. The ordinary receipt is inferior to his ordinary charge.

2. Waste another way.

Sol. All princes have had theyre affections, but the King hathe not spent upon his lusts.

His expences confined upon a vertue; liberality. A bucket of water. A rhetoricall [hand. . . . . .?]

3. The State is poore.

Yet in former tymes in farre greater . . . . the subjects did yeald supplie, yet he confest that trade dothe decay, and the wealth of the kingdome dothe not sanguify as in tymes past.

Sir Hen. Montague [reported] my LORD CHANCELLOR.

He sayd he need not to say any thing; and he had the priviledge of sylence, which was his age.

To perswade us, he would not, for that were to distrust us, and to distrust us were to wrong us.

The King hath opened his wants, and I doubt not butt wee beleve hym. *Qui incredulus est, infideliter agit.* Esay.

The Lord Treasurer Burgley, that Solon of England, sayd that he thought the kingdom could not have indured five such other yeares as were the 5 yeares of Q. Mary. Yet shee had supplie.

So in Henry the 8th; notwithstanding the greate treasure left hym, and his greate expences, many of which were needlesse.

SIR WM. TWISDEN sayd the first Lord sayd they would joyne with us, *nolumus leges Angliæ mutare, &c.* And to this purpose he wished wee might joyne with the Lords.

[Salisbury's fresh propositions were taken into consideration on Saturday, Nov. 17.]

17 Nov. MR. LEWKNOR.[a]

The contract [never ment?] to us.

Si caput ægrotat, cetera membra dolent.

Supplie must be had either from the { Comons. Merchants. Nobility.

[a] Samuel Lewknor, member for Bishop's Castle.

The comons are not able. They have given more in tyme of pease then ever was formerly given in tyme of warre.

The merchants are weakned by impositions.

The nobility may doe it: and it were good His Majesty would take that course; as Cyrus did, who, having given much to his nobylity and favourites, it was much misliked by the comons: whearupon he wrytte letters privately to his favourites desyring theyme to send hym a some of money, which they did; whearupon he sent for his counsell, and made theyme acquainted that he had reposed his treasure in the purses of his frends, as in the safest place.

I doubt not (sayes he), but that His Majesty hath disposed of his treasure with as greate wisdome and discretion as ever Cyrus did. And therefore it were good he would take that course.

But if this will not help, then he wished that the Kinge would be pleased to live of his owne, and to resume his pencions and lessen his charge. This he held to be the best course, and such as Julius Capitolinus records that Antoninus the Emperor did upon the like occasion, holding it unfitt and dishonorable that those should waste the treasure of the State who take no paynes to live of theyre owne, but spend all in excesse and ryott, depending wholy upon the bounty of the Prince, &c.

Sir Geo. More wished that wee should not so farre disable the State as that wee could not give supplie, for that would give great incouragement to the enimies of our religion; but that wee should consider what is fitt to give, and what fitt to desyre from His Majesty.

Sir Nath. Bacon.

As great reason to deny a supplie by reason of the breach of the Contract, as there was to breake the Contract. It was sayd that bothe of theyme should goe together. He thinks it not fitt to proceed with the supplie. His reasons:

I. Upon the last subsidy there was given to the Subject a show of ease of some greevances.

1. The King hathe called in the impositions of Alehowses, which he confesseth some losse to the King, but no lesse honor to hym.

2. The tyme long ere wee shall have benefite by the repeale of the lycence of Wynes.

3. The patent of New Drapery is not yet revoked; or, if it shall be, it is sayd that it wilbe upon the poynt of mispleding; so that there shalbe no judgment for the right of the Subject.

4. The matter of Cole, whearof the imposition is taken away, was not past in benefite 200 li. per annum; onely the coales of Blythe and Sunderland.

Theise matters offred by the Lords now are not the principall, no matters ecclesiasticall, proclamations, or such like. And therefore wished that wee would not conferre with the Lords.

II. No president that ever sevrall subsidies were granted in one Parliament, except in this Parliament.

No extraordinary cause. The wants of the King drew on all theise subsidies formerly granted, and must now drawe on this.

Theise are not extraordinary, but ordinary. I would they were not so ordinary.

And so he concluded that wee might not trouble ourselfs any further with considering of supplie, except the contract be sett on foote agayne.

Mr WENTWORTH wisht that wee adjorne till tomorrow,[a] and then think upon some things of moment to be desyred.

SIR SAMUEL SANDS.[b] To answer that, sithe wee cannot gett the fayre Helen, we will not wooe her foule apron.[c]

a Either this must be a mistake, or the date of Nov. 17, which fell on a Saturday, is wrong.

b Eldest brother of Sir Edwin Sandys.

c In the State Paper Office, James I. Dom. lviii. 21, is an address of the Speaker to the Commons, endorsed Nov. 17, and either delivered at the end of the debate, or read by him when the House met on the 18th :—

"Whearas it pleased His Majesty to send a declaration to the House by me, the Speaker, concerning the contract for His Majesty's tenures, and many other things contayned in a large memoriall, whereupon this Howse resolved to retourne His Majestie their answer in writing, which was delivered by certayne Committes of this Howse in humble and plaine termes.

"And where it pleased His Majestie since that tyme to let us know that, having compared our answer with the reasons contayned in his declaration, he found no ground whereupon to build any assurance or expectation to receave any suche proportion of helpe from us as he did ever expect before he wold bind himselfe and his posteritie to any

[The House adjourned to Wednesday, Nov. 21, when a letter was received from the King, and taken into consideration on the same day.]

Wensday, 21 *November*.

A letter from His Majesty to the Speaker, sent from Royston, read in the Howse to this purpose:—

Trusty and welbeloved, wee greete you well, &c.

First, concerning impositions, his finall answer is that he wilbe absolute bargaine concerning that buisines, wherein he had from the first to the last so constantly professed and declared that nothing could invite him to depart with so many antient flowers of the Crowne without such a contribution as might so farr repayre and establishe his estate, as neyther he nor his posteritie (except in violent causes of warr, and such like) should be driven to press upon his subjects, so as you have no more cause to except against the sinceritie of his playne and royall proceedinge then he hath of yours in respect of your playne and humble declaration, wherein you expressed that you found yourselves unable to satisfie his expectation. Forasmuch as it hath pleased His Majestie to take an occation since that tyme to send for diverse gentlemen (some of them his owne servants, all of them his subjects) with purpose only to conferre with them as private men, wherein he was so far from dealing with them for anything that they had spoken in Parliament, or for any thing he would wish them to speak, as he disclaymed from hearing or speaking anything to them as members of that Howse, having no other end nor purpose in this conference, but onely to make them see how unwilling he would be to suffer any thing to be mistaken that may have passed heretofore upon any occation eyther out of Parlement or in Parlement from him or them (concerning his care of the common good of his loving subjects). The particulars of which conference, and all the circumstances thereof, he leaveth to their owne report. His Majestie hath now bene pleased also to command me to say thus much unto you before his going out of towne, which is that now he doth now require you to take direct knowledge from him that, although he intendeth not to intertayne any further speech about the contract, for the reasons already delivered on both sids, which now he declareth to be at an end, neverthelesse, becawse he can be content you should better understand his inclination, as well concerning matter of impositions as some other things whereof he hath heard many reports by diverse members of that Howse at severall tymes, and upon diverse occations since this session; he doth now require you to forbeare for the present any further speech concerning the supply of him or his estate, until you shall have heard something from him, which shalbe within few dayes. In which respect, he hath commanded me to adjourne the sitting of this howse until Wednesday next, about which tyme it shall well appere unto you that he will be far from seeking to press you any further then you yourselves (all circumstances considered) shall think as fit to offer to your King, as he to require it.

contented to passe an act to restrayne hym hearafter from imposing upon merchandises, his heyres and successors; but not to take away those that be. Otherwise then by leaving theyme to our consideration to transpose as we think fitt, if any be unduly rated, or in lieu of theyme to rayse any other benefite of equall benefite.

2. Prohibitions and proclamations and 4 shyres. 4 shyre, never had any intention to deny justice. He suspends his consideracion till the end of Midsomer terme next. From which tyme forward he will leave theyme to the course of lawe and justice.

SIR ROBERT HARLEY.[a]

He cannot yeald to a supplie for theise thinges onely. His reasons:—

1. Our fruytelesse proceedings in the Contract, whearin wee have spent our tyme and our labours.

They may say of us that wee have sett out a false almanack of a jubile.

He would wish some things to be added—a composition with the Kinge for the Wardships of the bodies of our posterities, leaving Tenures as now they be.[b]

To which purpose he wisht that wee may have conference with the Lords.

SIR JAMES SKYDMORE.[c]
SIR JOHN SAMS.

A letter from divers justices of peace concerning the 4 shyres.

Parliaments the pulse of the commonwealth, which shewes life or deathe; and therefore wisht that the Parliament may be restored to its ancient liberty. Orders and ceremonies necessary.

He wisheth that wee may petition to the Kinge that, when it

[a] Member for Radnor.

[b] It seems that this proposal had been previously made in the House of Commons, though it is not mentioned in these notes; for, on the 21st, Sir T. Lake, who was with the King at Royston, wrote to the Earls of Salisbury, Northampton, Suffolk, and Worcester (State Paper Office, James I. Dom. lviii. 26), telling them that the had on he preceding evening given to the King a paper concerning "the points of the contract, and wherein this one point of the maryages was contayned at the last." The King complained of the Parliament, but would give a favourable reply if they would offer support as well as supply.

[c] Sir James Scudamore, member for Herefordshire.

pleaseth hym to speake with any of the Howse, or to be informed of anything that shall passe here, that then he would be pleased to acquaynt the Howse therwith, and that then the Howse may give direction.[a]

Wee knowe not whither they have transgrest the order of the Howse or no; and therefore he wisht that some of theyme that were there may make a relation of theyre proceedings. NICH. HYDE.

Reasons for theyme:—

1. This is a greate counsell whearof the King is the head, and thearfore lawfull for us to communicate with the head. MR. HACKWELL.

2. Wee are his subjects, and therefore bound to come when he sends for us.

3. His Majesty conferred with theyme as a private man, and private men.

4. Great good fruyte of this conference.

But wee live in a happie state; but that comonwealth is best which is framed for all tymes.

1. If he once deliver his opinion to his Kinge he cannot vary from it without accusing hymself of greate weaknes.

2. As he sent for 30, so he may send for 30 more, and so *in infinitum*, and so know all the opinions of the Howse.

3. They come not furnished with the wisdome of the Howse, and so may deliver the weakest reasons, and leave the best, which may leave a prejudice in His Majesty's mynde, and disadvantage the cause.

They should have answered as Justice Fineux did, desyre to conferre with his brethren.

He moved that an order may be made that none should hearafter doe the like without first acquainting the Howse, and that wee may petition to his Majesty as formerly was moved.

Some admonition is fitt. They have not kept theyre rank; with that souldier that went out of his rank and wonne the victory.

[a] "About fifteen days since, the day before the King went to Roiston, His Majesty called thirty of the Parliament House before him at Whitehall." (John More to Winwood, Dec. 1, 1610, Winw. Mem. iii. 235.)

Mr. Bowes[a] moved that first there might be a report of the conference.

Mr. James moved that the serjant may declare from whome he had his warrant to warne the gent. to appeare hymself in person, whearas the ancient order was to have delivered his mynde by the Speaker.

Mr. Martyn desyred not to passe it by a question for a relation. If it be imposed upon hym he must refuse. If a report be now made wee must doe it as Parliament men, whearas we conferred as private men.

Mr. Holt moved that the serjant may make knowne from whome he receaved his warrant. Wee are privilidged from some comandes, as from the King's wrytte.

The Serjant made knowne that he receaved a note of theyre names from Mr. Chancellor.

Mr. Chancellor sayd he receaved like note from His Majesty, to intreate theyme as private men.

Sir Cary Rawleighe[b] moved that an order may be sett downe for preservacion of the priveledge of the Howse.

Sir Herbert Crofts yealded to a report, to the end that they may understand His Majesties gracious proceedings.

Mr. Fuller moved that every one may severally reporte his owne speech if the Howse would have a report.

[The debate was continued on Thursday, Nov. 22.]

This matter was debated the next day after, but in the end overruled, that no reporte should be made; neither as Parliament men (because they receaved no commission from the Howse), nor as private men or delinquents.

But it was agreed that an order should be drawne to prevent the like hearafter.

Mr. Holt sayd that theyre comandment at the first, to appeare

[a] Talbot Bowes, member for Richmond.

[b] Sir Carew Raleigh, brother of Sir Walter, and member for Downton.

before the King, was against the priviledge of the Howse. His reason was for that wee were called hither by the Kinges wrytt, and so farre bound to atendance here as that the Kinges wrytte could not call us hence into any other of his courts; much lesse by a message or a paper before hymself. But this opinion was not seconded by any other; and (as I thinke) there is no ground for this opinion; for, as he may comande the whole Howse to appeare before hym, so he may comande any particuler member of the Howse to appeare before hym.

It is usuall for the King to [send] any of the Howse beyond sea, upon embassage or other services.

Also, whereas he did object that wee are priviledged from the King's comand by his wrytt to appeare in any of his courts. That is onely from ordinary wrytts sued out by one subject against another, whereof, by intendment, the Kinge knowes not. But, if for treason, felony, or any offence, any of us receave the Kinges wrytt to appeare at his suyte in any of his cortes, or before hym in person, the Howse will not allow us our priviledge. And so, alsoe, if the King's wrytt come unto us (thoe sued out by a subject), reciting that wee are of the Howse, and yet, notwithstanding, comanding us to appeare, I thinke wee ought not to have allowed unto us our priviledge of Parliament.[a]

[On the next day, Friday, Nov. 23, the debate on the main question of the King's letter was resumed.]

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[a] It is probable that the question of bargaining for the marriage of heirs was discussed in this debate, though it is not noticed in the text. Salisbury wrote to the King at noon and again at midnight. In consequence, on the 23rd James wrote to Salisbury and the three other lords to accept any overture which might be made by the Commons for a conference on the subject, if it seemed likely that they would offer support and supply. (The King to the Lord Treasurer, &c., State Paper Office, Dom. lviii. 30.) If the Commons persisted in "extravagant demands," or the overture about marriages failed, the King's "resolution is then, you shall put the matter of supply to the question, preparing men as well as you can, and warning his servants and well-willers to be present at the day. For His Majesty thinketh he can take no more dishonor in denying of it (if it fortune to be denyed, which His Majesty hopes will not be utterly,) then in dissolving the Parlement without moving it at all." (Lake to Salisbury, Nov. 23, Dom. lviii. 31.)

MR. WHITLOCKE. That Impositions may be reformed, and suffred for some few yeares, so as the judgment in the Exchequer may be reversed and a lawe passe to restrayne hym from imposing hearafter.

MR. DYOTT [a] yealds to supplie, so as we may have a lawe to restrayne hearafter the King from imposing (and theise that are to be left to the lawe).

2. Some ease in purveyance.

3. Wardships of the bodie discharged.

4. Lymiting of the King's title and debts.

SIR THO. BEOMONT. Reasons to move us to give a supplie:—

1. King's necessities; which is much to be respected. The King's answer to the petition of the sylent ministers: "Will you undertake that the ministers would rest with tolleracion of ceremonies, and proceed no further?" So, if any will undertake that the Kinge shall not want hearafter, and that wee may have the free course of justice.

2. Feare of dangers; privy seales, and execution of penall lawes.

The King is just, and therefore no reason.

2 causes of the plagues threatned by the Prophets: 1. Idolatry. 2. Oppression of the poore by greate men.

3 causes of subsidies: 1. Defence of the State. [2.][b] For a testimony of our love. 3. Mayntenance of the Kinge.

The first is not now needfull, the 2^{d} wee have performed, and for the thyrd wee have offred support.

The impositions a cause of the losse of a 4th part in wools, and his charge in diet and apparell a 6th parte increased.

2. Contrary to lawe.

3. Wee are called the elder brothers of the Scotts, but it fares not so with us.

In Scotland they pay nothing, whearas wee pay the half of the value, as in seacoll v s. per chaldron. A law made in Scotland, Jac. I., cap. 28; and another in 7th Parliament, cap. 107. No

[a] Anthony Dyott, member for Lichfield.

[b] This figure and the next are "3" and "4" in the MS.

judge nor any other shall presume to expound the lawe contrary to the meaning of the law makers.

Wee have the like lawes, but they are more infringed.

1. Question, whether, things standing as they doe, we will give a supplie.[a]

2. A Comittee to be chosen to consider how wee may yeald a supplie.

MR. SOLICITOR. The proportion of any supplie is not now in question. If it were, he would be as moderate as another. For some showrs may allay the wynde a little, thoe they will not serve to water the earth.

He will not laboriously perswade: but if Cyrus should seeke his suplie where he hathe bestowed his benefits as well of the scepter as of the hand, of goverment as well as of bounty, he would not wish that there should be songe too loud a countertenor of the wants of the contry, for he hopes his contry is in better case.

The examination of the matters offred by way of retribution, *seriatim*, to be done by ourselves or by a committee.

MR. FULLER.[b] The synnes of the world a cause why God dothe not blesse us. Wisht that wee would give passage to the bills in the Howse; pluralities, nonresidents. To declare that the King cannot impose; wards.

Rebus sic stantibus, wee cannot give a supplie. But if theise things may be proceeded in, he would yeald to a supplie.

MR. RECORDER[c] The things propounded of that weight as were fitt to be considered of. Impositions necessary in some cases, to restrayne the importacion of forrayne superfluyties. So, on the other side, it is good to impose, to hinder theyre exportacion trade: victualls, gold, and silver.

[a] Marginal note, "*Rebus sic stantibus.*"

[b] A full report of this speech is printed in the Somers' Tracts, ii. 151, as "A memorable speech in the House of Commons, 1611." At the commencement, Fuller quoted Salisbury as saying "that he did well perceive that we had a great desire to have effected that great contract, that the King's Majesty had willingly given his assent to the same, and that nevertheless it proceeded not, wherein they could not find the impediment but that God did not bless it."

[c] Sir Henry Montague.

A committee to consider of theise things, and what more shalbe added.

SIR JOHN SAMS. Not fitt when wee refuse the whole to become suytors for parte, and therefore desyres to be putt to the question.

MR. WENTWORTH wisheth that wee may signify to His Majesty the causes of our doubts, and willingnes to give supplie rather then putt it sodainly to the question.

Things fitt to be presented to His Majesty.

The saying of Constantine, better to have his treasure in his subjects' purses then in his treasury.

Much money come in and the lesse appeares. Olde debts, reprisalls, subsidies, compositions for defective titles, sales, old castles, and leade.

45 Ezechiel: "Let it suffice you, yee Kings, and take away exactions." Rehoboam's ancient counsellors.

The illgotten impositions corrupt the honest revenues of the Crowne, as Alehowses. The goods of the sylent ministers given by Mrs. Venables,[a] taken from one to give to another.

Nullus princeps tollere potest appellationis remedium. For theise things he thinks that God is angry with the King's treasury.

Wee must not spend our synews of warre in tyme of peace.

Wee would be glad to heare of Spayne, that the Kinge spent all upon his favorites and wanton courtiers.[b]

MR. HOSKYNS. The question whither wee will give, *rebus sic stantibus*, is like to be with childe with another. *Quomodo possunt res mutari in melius?*

Henry the 7th and Tiberius bothe rich, but not taking all from the people. Tacitus.

[a] Property bequeathed by Mrs. Venables to the Puritan ministers who had been forbidden to preach. The will was not allowed to be carried out.

[b] This speech gave particular offence to the King, who was anxious to punish the speaker, as Queen Elizabeth had punished his "father and many others by commitment." The Council had great difficulty in persuading him to desist from his intention. (Lake to Salisbury, Dec. 2 and 6. State Paper Office, Dom. lviii. 54 and 62.)

Cato had a double revenue: frugality is one. Well governing of revenue hathe bene a meanes used by princes to supplie his revenue.

The falt of those that so presse upon the Prince as to hold his Parliament to sitt 7 yeares together to fynde meanes how to supplie the King.

1. Theise not English. They were wont to spend theyre owne revenue in the King's service.

2. Not Irish; they will be costermongers rather then want.

Not Dutch; for they are ingenious and industrious.

They be such as hold a consultacion how to draw out of this cesterne as fast as wee fill it.

Fitt to make knowne to the Kinge whearin wee are not satisfied, and what wee doe desyre, and to give thanks for that which he hathe granted. SIR HERBERT CROFTE.

Which was concluded upon by a question, and order taken that none should departe forthe of the towne, *sub penâ* of committing to the Tower.

[On the next day, Saturday, Nov. 24, a letter was received from the King, commanding the Speaker to adjourn the House to Thursday, Nov. 29.]

On Saturday the Speaker receaved a letter from His Majesty, signifying that he had offred divers things of grace for the good of his subjects; but the more he was desirous to give theyme contentment, he did perceave the lesse it was regarded, and that new greevances and complaints were raysed to his dishonor. And therefore he commanded hym to adjorne the Howse and all committees till Thursday following.[a] At what tyme wee should heare further from hym.

[a] "His Majesty thinketh it fitt that they may remayn in hope to meet again, and not instantly to be dissolved," so that "if any hope remayne with your Lordship of obtayning supply it may be putt to a tryall at the next meeting." (Lake to Salisbury, Nov. 24, State Paper Office, Dom. lviii. 32.)

On the following day Lake writes that the King has received "a copie of the order sett down against the next meeting of the Howse, which His Majesty doth collect into three points; first, to give reasons why they should yeald to no supply; secondly, to examyne

And so accordingly the Parliament was adjorned, and from thence adjorned by comission to some of the Lords, *usque* 9 Febr., the King being at Roiston.

[On the 9th February, 1611, the Parliament was finally dissolved.]

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the aunsweares to the greivances, and whearin they are not satisfactory; and, thirdly, to consyder what further immunityes and easements are to be demanded for the people. His Majesty doth also perceave both by my Lord of Montgomery, and by Sir Roger Ashton, that you could wish that His Majesty and your Lordships might have a meeting to consult of his affaires in Parlement.

"To both these His Majesty willeth this to be written; that he maketh no doubt but that the cause of your late advise to adjorn the Howse was for that you foresaw they would doe worse on Saterday then they had done on Friday. And how you are now assured that when they meet again on Thursday, they will not be in the same mood, His Majesty wold be glad to know; for he assureth him selfe that if Your Lordships thought the Howse wold follow the same humor you wold not advise their meeting. His Highness wisheth Your Lordship to calle to mynde that he hath now had patience with this assembly these seven yeares, and from them receaved more disgraces, censures, and ignomonies, then ever Prince did endure. He followed Your Lordship's advises in having patience, hoping for better issue. He cannot have asinine patience, he is not made of that mettall. For his part he is resolved, though now at their next meeting they wold give him supply, were it never so large, and sauce it with such taunts and disgraces as have been uttered of him and those that appertain to him (which by consequence redound to himselfe), nay, though it were another kingdome, he will not accept it."

He will not meet them, as the only object to be gained by seeing them no longer exists. The only thing to be considered is how to dissolve the Parliament "with fairest shew." He wishes to have a particular account of what took place on Friday; as some of the speeches were either treasonable, or "at least so scandalous (as His Majesty is informed), that he thinketh he shall have just ground to call the speakers to an account for them." (Lake to Salisbury, Nov. 25, State Paper Office, Dom. lviii. 35.)

APPENDIX.

APPENDIX A.

The following report of the Conference of Thursday, April 26, made to the House of Commons on Saturday, April 28, is taken from the Harl. MS. 777, fol. 33 b.

Sir Edwin Sandis maketh report of the late Conference particularly as followeth:

An answer to his Majesty's insistinge on the points of honor for Tenure, whereunto we yeilded.

A demaund of his pleasure touchinge the price we offered.

A reply thereunto was made by that greate Treasurer of wisedome.

In reportinge whereof and reduceinge it into orderly parts I shall perhapps do as modern interpreters do with ancient wryters, who find out that method in them which the authors never meant, which if I shall do, I shall do that which is right, for wisedome is alwayes orderly, yea, though it neglect it, as perfeccion is alwayes beautiefull though it least affect it.

The order which I observe in this noble lord's speach was the order of a chaine, which is the highest and most perfect kinde of order in the world, and that within [which] the world itselfe is framed, each like drawinge another (as dependinge on it) with easy mocion, the former parts giveinge light unto the later, and the later returninge strength unto the former.

The first part was by way of introduction, an approbacion of our answere to the mater of honor.

The second a view of the present state of the cause, wherein our offer together with our demaund touchinge the acceptance thereof were considered.

The third his lordship's answere to that demaund.

The fourth a conclusion or shuttinge up of his speach.

Nowe we are come neare to our meane ground, from which there was a fixed resolution never to depart.

So as, accordinge to the rules of nature, this weightie cause drawinge downe

to his center, wee are to drawe our lynes from that center to the circumference wherein our accions must all be circumscribed.

His lordship conceived more hope of effectinge this busines (howe great soever the difficulties appeare) by the speach that daye from us delivered, soe tempered with respect of dutie, in so precise a forme, and upon so settled a ground, that, wantinge words to expresse how much satisfaccion both the matter and manner gave him, he would also leave to praise the person of the deliverer, whose works praised himselfe and their judgement that chose him. So *suaviter* were all things *disposita* hitherto.

He tooke it then for graunted that the pointe of honor, so precious to the fountaine of honor, should by us all be so preserved, as future tymes would reverence the present age, and behold as in a glasse a true mirror of dutie, affeccion, and judgement. For, labouringe to advance the honor of monarchy, to offer anie thinge that should clipp the wings of soveraignetie, were contrary to our owne primogenite intention, and must needs proceed from passion or iniquity. Yet (to wipe awaye all undue aspersion from our Howse) his lordship said that if that which was desired had beene granted, hee would not say the desirers had beene accountable for those qualities (those qualities of passion and iniquity). For this proposition of ours was not so absolute, but that some what was expressly left to further consideracion touchinge fealty, which, if wee had beene peremptory to have wholly tyed it to a manor, the Kinge would never have joyned therein ; nay, had his Majestie overseen it (which his pearcinge judgement did not) let there be no record left that their Howse of Parliament would have assented to it ; and so much for the difference (not the opposition) which had beene between us.

Five things propounded as main branches of this cause.
- What wee desire ?
- With what securitie ?
- And what price ?
- How to levey it ?
- What course for preservacion of manors and their rights ?

He observed that wee tooke our selves in effect to have past over two of them, what wee would desire, and with what securytie.

Other two were what wee would give, and howe wee would levy it.

To the former, whereof wee expected an answer that day, namely, how farr our offer of 100 M. li a yere did work in the King's mynde to joyne with us in contract.

For the fifth, whereof wee seemed to entertaine carefull thoughts, he tooke it, though the last, yet of weighty consideracion; for, if the noblesse, which had beene left under tutelage of the Kinge, should nowe be left at randome

under fortune not providence, posteritie might saye wee hunted more after the profitt of the proteccion then after their patronage from oppression, whiche was the first institucion of wardship; which, because it could not be without some charge to the Kinge, it grewe also to some charge to them, for he was perswaded it was no more the main intencion of the first institucion then in makeinge a penall lawe the profitt thereof is the object of the lawe makers. His Lordship the[n] recollected the state of the busines, what more wee desired, and what more wee offered, expressly particularysinge that wee desyred not now the transplantinge of any tenure to a mannor which was nowe fixed to His Majesty's person, and that we offered for the tenures and wardshipps, with all other their incidents, 100 M. li. by the yere, not reserveinge that benefitt which the Crowne nowe maketh by them. Where his Lordship craved pardon that he was somewhat too curious not to mistake us, for he feared least some want in himselfe in conveighinge those things to us which the Kinge propounded had made them more obscure then they would have beene if they had beene rightly and exactly delivered; consideringe also the nature of the thinges themselves, which howe much lesse pleasinge, drawe so much the lesse attention.

His Lordship's answer to our offer was large fortified on all sides with sundrey defences, attended also with divers sage direccions and instruccions.

It consisted, as I conceive, of these four links—

The first was a rehearsall of former proceedings servinge as a ground to the present answere, both for maner and matter.

The second was the maner of the answer howe it cometh from the Lords.

The third was the matter of the answer, proceedinge from the Kinge himselfe.

The fourth was certaine direccions and instructions to us howe to governe our selves in negociatinge with His Majestie.

In the first place, His Lordship said, he would now give us an answere to our offer; wherein yet he said he must take some libertie to make their proceedings appeare compleat, both in matter and forme. To come to an end. Though if the *mediæ* be nought, honest men avoyd in their ordinary contemplacions and accions. So for them to come to us lamely, precipitately, and disorderly, could not be liked. He prayed us therefore to consider howe wee come into this busines and desire at first, which happelye might serve to justify somewhat that should be delivered in the enterance of this Session. It was publiquely delivered that necessitie made the Kinge to trouble his people: necessity, not voluntary, but inevitable and just, requiring both supplie and support, and the persons to speak for it are the Kinge and his sonn. Out of this necessitie was heard an agreement framed, that except 200 M. li. annually were raysed to the Kinge, above all that he nowe hath, it was short of this necessarie expence, and might be dangerous: wee were told likewise of some pro-

posicions of money; the reasons why they were needed, and the use wherein they were to be imployed.

When they had lapt up these both together, though freely and confidently delivered by them, they found that that which they thought would have made it passable, had not brought that weight into the ballance of our judgement which was expected. For as they demaunded contribucion, so they offered retribucion, such as they thought might have beene acceptable to us.

Yet they told us of some thinges not to be thought on, for they were lodged in the Crowne so inseparably as no man of understandinge could ever expect them; prerogatives indisputable and supreame, as protecion of justice, and others whereof he had beforetime spoken of, were a thinge servile for us to offer to buy, and no lesse dishonorable for the Kinge to sell.

Other things there were, flowers and regalities of the Crowne indisputable, wherein wee myht have ease, though oppressive wee could not count them. Wardship was not emongst them. Fynes for alienacion, respect of homage, and purveyance were. Other more now not fit to remember, seeing since that time they have never beene thought on. What progresse matters had since, our selves (he said) were witnesses. After this repeticion of former proceedings, it pleased his Lordship to lay open to us the maner how this answer nowe cometh to us from the Lords.

Ast he Kinge, haveinge a report made him of our desire and offer, stood strong upon his exception; so the Lords also were desirous that His Majestie should discerne that they in like sort gave it no comendacion. His Majestie, out of his vast judgement, findinge presentlye that they liked it not, sent his absolute answere never to joyne with us in that first issue, but reserved himselfe upon the point of price.

Howe then their Lordships came to joyne with us, and what power they did gather to expresse them, he said hee would cleare. The Kinge resolvinge to leave this towne, resolved also to refuse our offer, unles wee did satisfie him in the point of honor, which if wee did hee did then calculate how he myht receeve our answere, and wee his from the Lords, with whome in fine he left his provisionall authority to give us answere; so as they were to make us knowe they came cleerely resolved, and not to put menage upon the Lower Howse, to tosse up and downe in varieties and incertainties.

This beinge the manner howe the answer cometh to us from the Lords, now followeth the answer it selfe proceedinge from the Kinge.

When demaund of 200 M. li. per annum and 600 M. li. was made, there was no thought (sayth the Kinge) that he should parte with the Wards, nay (saith the Kinge), and so say wee, there was no thought of divers charges which since seemed necessary. Shall I flatter you (quoth his Lordship) when the Wardes is taken away 200 M. li. a yere will then be sufficient. The state is not so full

of levity as to departe from that proporcion which they have made. And if wee thought then without Tenures that demaund to be just, shall wee nowe, castinge in the Wards, think it enough; you haveinge given cause of augmentacion by your demaund.

His Lordship said he urged not this, as if the Kinge would not parte with it upon good condicion. So yet if the condicion be not proportionable to part with such a flower, it is a presydent without president, that the Kinge should do that which never kinge since the Conquest did. And as thus advised, except his state be helpt in the grosse, so as he may be answereable to succession for that he parts with, wee shall never have it.

He saith not 100M.li. is too much or too little for the Wards, but the Wards is too much for anie thinge that shall come short of the King's first demaund. Yet wee were told wee should looke to the *posse* as well as to the *esse*, beinge a *posse* upon a just ground, and not like a rack upon a penall statute. The conclusion therefore was, that unles wee offered that which might give the Kinge a compleat satisfaccon, not *reddendo singula singulis*, but *sub tota materia* 200 M. li.; a yere above whatsoever we defalked from him by our contract, the Wards will not be had. And if that may be made up then take (quoth his Lordship) Wards, Purveyance, and those other incidents, with what else the Parliament shall thinke fitt; which his Lordship thought might be fixed on some fewe things not meddlinge with any matter that beares the marke of Soveraignety.

His Lordship, haveinge incouraged us to proceed yet in negotiateinge and bargayninge with His Majestie, now lastly adviseth us as well what cautions as courses to hold therein.

He saith if hee should enlarge us, and tempt us to thinke upon more, and set us no lymitts: wee myht dwell in an error by his error. He would therefore insist upon some fewe opinions the better to guide us.

1. He tooke it *pro concesso*, that the King's just necessity must be relieved by his people.

2. The K. is governor of his subjects, and is not absolutely to depend upon the will of the people in point of subsistance.

3. The K. hath prerogative by the lawe of nations as much as any Christian prince whatsoever, yf it be not restrayned by the municipall lawes of the kingdome.

4. The seale of the prerogative in any matter of charge to the subject he held not so boundelesse but that the weale of the publique was the measure of it. Howbeit, to make the King and the subject all one *natura ipsa negat, lex prohibet.*

5. When princes extend their prerogative so farr, that it workes not the good but the greife of their subjects, they clip their owne greatnes. If in the

time, the frequency, the proporcion there be excesse, the Parliament is a fitt time to complaine, and subjects may be bould there to disput against the prerogative and to desire moderacion; yet so as not to strike *in radice*, for such roots may not be pulled up. To this end his Lordship alleaged a philosophicall example, which though in some time and some judgment it were vulgar, yet might serve to give a reason of this assertion. A vessell full of water if it be moderately poured out, it will last infinitely, if the matter be infinite; but if you indeavour to turn it out all att once as it were by a profuse exhaustinge, in that case the element will not yssue, but stayeth contrary to his *particularis natura, quæ cedit universali, ne detur vacuum, a quo natura abhorret.* To stretch prerogative so as to extend beyond measur, nature it selfe speakes against it.

6. An advise dependinge upon abuse of the former assertion, that, if wee shall flatter ourselves in our owne private opinions, when cases are judged in a court proper to determin them by judgement of judges, not upon a motion made to them sittinge on horsbake or walkinge in a garden, but advisedly upon sight of presidents and Acts of Parliament, this were but to barke against the moone. He wished to spend no time in it, for he knewe wee should never obtaine it.

7. When princes ask taxes more than the subjects maye beare, they must heare with benignitie, and may be refused.

[8.] If the subjects desire not a *da pacem in diebus nostris*, but a benefitt so fixed as to descend to their posteritie, for that they must paye.

The sum of all is this. The Kinge knoweth no cause to alter his first demaund; he geves us our owne desires in this, which is worth ten of all the rest.

He advised us therefore to make up the grosse, to leave that well setled, which succeedinge ages would value. That wee should walke into the feilds of our owne understandinge, and picke any flower that might not deface the garland, the Kinge would be contented.

By the example of this one particular wee myht see howe fixed the Kinge was in point of honor; as thus advised he knewe no cause to make us a lower price.

His Lordship ended with the proposition touchinge the Court of Orphanage, that it was acceptable to them that wee had thought of it.

APPENDIX B.

The following letter relating to the reception of the House by the King on the 10th July, and inclosing Salisbury's speech on that occasion, is taken from the Harl. MS. 354, fol. 2-8.

I hope I have satisfied your desire in sending you as perfect a copy of the Lord Treasurer's speach as you could have from any other hand, for I did diligently employ my tables, and made use of the like collection of two gentlemen of the Lower House who had both better braines and swifter pens then I.

The manner was thus. So soone as His Majestie had ended a speach (full of great gravitie and grace) to both the Houses assembled at Whitehall, he tooke notice of some greivances; as, the payments upon Alehouses and Seacole shipped upon the river of Blith, the patent upon New Draperies, and laying Impositions upon comodities outward and inward. But before he suffred his answer to be read, he called to the Lord Treasurer (sitting by in his place) and willed him to declare therein his plesure, both what occasion had moved His Majestie to lay the late Impositions, and how he (as his officer) had observed his direccions in the distribucion of the same. Whereupon the Lord Treasurer stood up, and, after due reverence to the King and Prince (there present), turned himself to the Lords, Knights, and Burgesses, and spake as will appeare to you by that which you shall receave herewith. Of which he had no sooner made an end, but the King (well approving his relacion, and adding thereunto many things that were materiall,) comanded the clerk of the Higher House to read openly some such answeres as he had caused to be put in wryting to some parte of the greivances which had been exhibited by the Lower House, with promise to give answer to the rest before the Session ended. The substance whereof was this which followeth:—

First, that the payment upon Alehouses should cease.

That the impost upon Coales shipped from the river of Blith should be taken away.

That the New Draperie should be referred absolutely to the law.

And for the Impositions upon merchandize, he pronounced this answer with his own mouth, that now they had heard the cause and manner of his proceeding in them, His Majestie would make them see that he wold be so far from giving his people cause to feare any prejudice by using too severe a hand in that matter, as, although he knewe that the Lower House was not a place to determine the lawes in a case of a privat man, much less concerning a prince's right, yet he was pleased out of his owne meere grace to assure them (besides

the great abatement which he had made during this Sessions of divers imposts to his great losse,) that he wold be willing to assent to an act by which his powre should be suspended from imposing any more upon merchandizes without consent of Parliament.

Concerning your desire to knowe which of the new impositions shall stand or fall, I must refer you for the particulers that are abated to the viewe of the booke which is now in the presse. But for the generall, I do heere that so many imposts are taken away, and so many abated, as the subject shall gaine much by the complaint. So as adding those to the putting downe of the alehouses, the logwood, the new allowance to the tinners of a greater price, and, which is most of all, the King's gracious inclinacion to troble the subject no more with any impositions but those that are now left, which are, for the most part, upon silk, lawne, spice, fruit, and such like, I confesse that I should never have grudged if his one Subsidy and Fifteene had byn doubled. I would to God you could send me as good newes that the impost upon our cloth were as free at Midleborough, then wold we say it were a good yeare.

Now that you have triall of my readines to take paines for your contentment, not only in setting downe so particulerly what was said by the Lord Treasurer, but in adventuring also to make mencion of some passages delivered by His Majestie, I looke to be so well requited as there may no notice be taken of my name, because it is a tickle thing for a privat man to be the reporter of such speaches as come out of the mouths of men in great places under Princes, much more of a Prince himself, who for learning, elloquence, and wisdome so far excelleth any of those that have gone before him.

Your loving friend,

G. D.

From London, the 28 of July, 1610.

To my loving friend A. W.
at Middleborough.

It may please your Majestie. I do esteeme it a great deale of honour and favour that you are pleased to lay upon me this commandment, especially when I take into contemplacion some proprieties undevided from your person, and some circumstances touching the nature of this assemblie.

But first (if it were but this) I should reckon it for a great grace, that your Majestie inviteth and directeth me (being a servant) to do that which your Majestie (my Soveraigne Lord and Maister) doth practise yourself. And

there cannot be a greater honour, then to move, though in a lowe and smaller spheare, yet in the same figure and motion that his Soveraigne doth.

Your Majestie, that is accomptable to none but God, (out of the greatnes of your minde) are many times willing *ex mero motu* to satisfie your people concerning your actions; and therefore noe mervaile if myself, that am in this case accomptable to you, do receave with gladnes your commaundments to make you now a declaracion of that which hath formerly passed in the hearing of my fellowe subjects, but principally when I sett before myne eies a King that is not in the first or second weaknes of humaine nature (unripe youth, or extreeme age), but in the strength and vigour of your yeares: a King that is not now *in novitate regni*, but a King of great wisdom by your former experience in the government of a great kingdome; and, who have also fulfilled the perfect number of seaven yeares' raigne in this realme: and a King that is fortefied with such a second person, and other royal yssue, without which (in a King) *magnus populus est magna solitudo*.

Concerning the circumstances whereof I made mencion (respecting the nature of this assembly), first, I know that I speake not before a company compounded *ex grege populi*, but *ex flore regni;* not before a nomber congregated without order, but formally assembled by that great and absolute powre which can only call and dissolve a Parliament. So as I conclude with myself that my declaracion now shall yeeld me so much fruit at the least, as to pull some feathers from Fame and Rumour (which have commonly but one and the same ditty), for truth and falsehood, as the poet saieth, *pariter facta et infecta canit.*

Now because I am to give light and not to cast shadowes, I will, by your Majesty's permission, (to the end I may be the more cleerely understood,) devide that which I shall speake into these three parts:—

1. The cause and the time of setting the late impositions upon merchandize.
2. The caution used in setting them.
3. The effect and consequence.

That in every of them may appeare, as Cicero saieth, *quid res ipsa tulerit, quid error junxerit,*[a] *quid invidia conflarat:* what is truth, what is mistaken, and what is aggrevated by the complaint.

For the cause in setting theis impositions, it was the necessity of tyme; and for the tyme, it was in the moneth of June two yeares past[b] resolved of, which circumstance is somewhat materiall, and therefore makes me bold to borrow somewhat of tyme to speake of tyme.

[a] "imxerat" in MS.

[b] Hale (Hargrave's Tracts, i. 194) says that the letters patent accompanying the Book of Rates were dated July 28, 6 Jac. *i. e.* 1608. The resolution of the Council would probably be, as stated by Salisbury, in the preceding month.

When the late Lord Treasurer lived and saw the tide of His Majesties wantes so furiously breaking over the banks of his estate (even in the instant when there was cause to doubt some new defection in Ireland), his Lordship (according to the dutie of his place, and his great care to provide for all occasions), among many other projects to raise money, propounded the course of imposing upon merchandize imported and exported.

This matter coming then in debate before my Lords,[a] it was thought fitt by a generall concurrence of opinion to deferre that course, and to supply the present wants by borrowing some great somes upon interest, rather then to put the same in execucion, except some further cause should afterwards appeare; and of this councell as I am sure my Lords will not deny me my porcion, so must all men acknowledge th'effect, considering the great somes which His Majestie tooke up at interest to defray the charge of that time. By which course when His Majestie and all my Lords resolved to prevent any burthen upon his subjects, then followed shortely after an open rebellion in Ulster by O'dohortie and others, whose surprize of His Majesty's forts, putting so many of his subjects to the sword, and discovery of the combinacion of the Earles Tyrone and Tyrconnel before their flight, gave so great cause to doubt a more generall revolt, and to provide for the sequell, as, although the former wants in His Majesty's estate had byn a little before underpropped by other meanes, yet were those wants now turned into soe violent necessities (whereof when Salomon speaketh, he saith "Want comes like a travailor in the night, but necessitie like an armed man"), as it was then thought no ill counsaile to preferre the former project of Impositions as the best temporarie remedie for those charges which were like to come on too fast to attend a Parliament, rather then to make choice of extending the King's prerogative for raysing of money any other waie upon the subjects, or to make benefitt by any rigorous prosecucion of penall lawes, much less to fall upon monopolies and other vaine projects devised by bankrupts and hatched in prisons.

So, as leaving now to speake upon the moving cause (which was only that necessitie which may be read in the table which hath hung before the eies of both Houses ever since this Session), I will now proceede to the second part, which is the order and caution used in the execucion of the proposicion made by my predecessor, and that was resolved in June was two yeares, but tooke not place till Michaelmas following.

A matter I mencion, not to cast an aspersion upon him whose person (I profess) I have loved, and whose opinion I have embraced after his death, but only to shew that it was not I that did *leonem pingere*.

[a] From the mention of the loans, it appears that this consultation must have taken place in October, 1607.

For the manner, it was thus. A number of selected merchants, of several trades, were called before my Lords of the Councell at Whitehall, and they required, according to their best care and understanding, to consider how those impositions might be laid with lesse prejudice, either to the trader or the buyer.

Theis persons, after long consideracion of the Booke of Rates, and often meetings, were againe assembled before Mr. Chauncellor and myself, with some of the Barons, calling to us some of the officers of the Custome House of best knowledge and understanding, where I presume I was so far from any partiallitie, as I did most willingly give way to the abatement of the King's receipt by taking downe divers impositions laied before my time, and all this before I moved them to speake of any newe. Among the which the impost upon the currants (set in the Queen's time, and then carried in a monopolie), was drawen from seaven shillings to under five in the hundred.

That don, they went on with the busines, and yet with theis cautions also:—

1. That no victuaile, nothing necessary for munician, or defence of the Realme, should pay any impost inward.

2. That all the merchandizes landed in England and carried out again (howsoever the propertie were changed), should be free of imposicion, because it is the course of merchants to bring comodities into one kingdome, to be so much the neerer to attend the oportunitie of vent in another, where alteracion in States and other occasions make the prices variable.

3. Another caution was given that the burthen of the impost should be cheifely set upon such commodities as in the use of them were growne to great excesse, as spice, silkes, cloathes of gould, and such other things as we are desirous should be made at home.

4. That no cloth should be charged at all, besides many other such cautions; as it is very unlikely to prove a true cause of that damage to the State which is now pretended. And hereof, as of the effect of his imposing, I am now to speake, as that which was reserved for the third parte of my devision.

In the complaint of theis impositions, they aime at two thinges.

In the one they reach at the powre;

In the other at the actuall evill rising from theis impositions.

For the first, though it be of so high a nature (respecting prerogative), as it is more fit for the highest to speake of then for me, yet, as it hath relacion to the comon lawes, because the very noise thereof doth sinck so deepe into the understanding of some, as they make a small straine upon a lawe in some particuler cases (though grounded only upon a violent necessitie of State,) to be of greater consequence then an invasion upon the whole State and Kingdome, I wilbe bould first to drawe that argument which is pressed so hard to prove the unlawfullnes of the new impositions into some forme, and, that done, I will

speake somewhat of those inconveniences which are said to fall upon the merchant trader and the general subject, that is the buyer.

That it is unlawful to impose upon merchandizes, outward or inward, that is the antecedent.

That the King's impositions are therefore laid upon the subject against law, is the consequent.

For answers to that proposicion, though I am no professor of the lawe (and therefore meane not to make lawyers sport by putting cases), yet, so far as my weake logick will helpe me to make a formall and a binding argument, I will make use of it rather then to suffer any imputacion upon the justice of His Majesty's actions.

First, I say that whatsoever is done by the warrant of a legal judgment, and in his proper seat of justice, is not unlawfull.

The new impositions were laid upon merchandizes in the port after a legal judgement, whereby His Majesty's right was declared in open court, judicially argued, and sentenced in the case of currants.

And therefore the new impositions were not unlawfull.

For the other parte of the evidence against theis new impositions, that they overthrowe the merchants' trade, make the subject pay the deerer for their wares, abate the home commodities, as wool, &c. (in which allegacions the best strength of their arguments doth consist, seing the rest is yet *sub judice*,) I think I shall make it easely appeare that this argument also doth halt on one foote.

For, if it be true that the merchant makes himself a gayner by the subject, then is the merchant no looser.

If he make no gaine then is the subject no looser.

So as, except you will agree that His Majesty's actions are unlawfull that were *solemni juditio vestitæ*, or conclude that it were fitter the state should have remained in a notorious want then the subject should have endured any extraordinarie chardge, until some better provision could be made, I know not why this matter should be made so great a greevance, much less to be branded with the marke of so great an injustice.

For, although I am not so well acquainted with the misteries of merchants' trade as I am with their complaintes, nor meane to judge every merchant faultie that shall, upon losse or greif by other casualties in their honest adventures, seeke to helpe themselves by alleadging sometimes *non causam pro causa*, nor hold those lawyers worthie of blame that whose credulitie or mistaking may report many things at large when they speake of things beyond their owne element, yet I must be bold when there is question made of my Master's actions as unlawful, or of my owne discrecion in the use of his authoritie, to use my best endeavours to make the truth appeare *in puris naturalibus*.

And therefore to the merchant that complaines of lack of trade by reason of the new impositions, I must say that decay of trade appeares by decay of His Majesty's customes. That his customes now are litle lesse then they were before the new impositions, which were a sufficient answere to that objeccion, though whosoever knoweth their beginning (which was no longer then Michaelmas was twelmoneth) and knowes the warres that have byn in Muscovy and Barbary, the piracies in the Mediterranean Sea, with the dearth of corne at home, the truce betweene Spaine and the Lowe Cuntries (before which time this kingdome was the secreat hand of trade betweene most of the northerne and southerne parts of Europe,) might much more justly have laied the envy of decay of trade upon those concurrences, then upon those impositions which have been laid upon those things principally which might be best charged, both in regard of the use and of the excesse. All which considered, though a gent. towards the lawe[a] shewed a catalogue of eleven hundred severall commodities charged with impositions, yet I think that figure will prove a cipher, if it be considered *valore non numero*, for I doe here affirme that of eleven hundred commodities three hundred of them doe not yeild the King ten pounds, five hundred of them doe not yeild the King three hundred pounds.

Besides, when it is considered that few or no manufactures (bazes and pewter excepted) nor any commodities native answeres any thing by way of imposition (lead and tynne excepted), I thinck it will plainely appeare (deviding His Majesty's proffitt into ten parts) that, of the muster of eleven hundred commodities supposed to be chardged, some thirtie natures beare nyne partes of the burthen.

That there is upon the bazes an impost standing, it is most true; so is it as true that most of them are vented by strangers, and that the single bazes at Barstaple in the countie of Devon are free from any impost; and, for the rest of them, they are no further chardged (by reason of this imposition) then might be sett upon them by a just Booke of Rates.

For the wrought pewter it is don to prevent any sale of the tynne beyond seas; and for the impost upon the tynne, those that know His Majesty's interest in the commoditie will not much troble themselves about that matter least the merchant loose by the bargaine.

For the lead, the only reason I can alleadge is that (being in good request in forraine parts, and so exhausted by the practise of the merchants as the price was brought to 15 or 16 li. the fodder at home,) it was don at the suit of the subject, who could scarce get it for money; where now by this course the price is drawne downe to the former rate, howsoever it may displease some

[a] So it stands in the MS.

particuler merchant, who venting much forgetts his gaine abroad, and only grudges the penny at home.

Concerning the impost set upon forraine manufactures, for as much as His Majesty's treaties with forraine states will not beare at this day any absolute prohibicion, (though they were forbidden to be brought in by many auncient lawes of the realme in favour of our owne people,) it was thought a good pollicie of state to impose upon such commodities as (being brought in unwrought in their simple materialls,) would encrease manufactures at home; which were much more agreeable to the rule of nature, then to suffer the good, staple, and substanciall commodities of our owne nation to be given for exchange of things, so much to the disadvantage of the Commonwealth.

For the decrease of the price of wool I meane not here to deliver any certaine opinion what may be the true cause, seeing so many wise men have byn, and are, devyded upon the question. I will only say thus much in answere to those that wold lay it upon the new impost, as hinderance to the trade of cloth:—

First, that it cannot be lack of vent of cloth, because the entries in the custome bookes (which are by true records) doe prove the contrarie.

Secondly, it is apparant that there is a great quantitie imported of bazes and other new stuffe made of wool mixed then hath byn in former times. And therefore I should think it much more probable if the price fall so fast, seeing our wool was ordinarilie sold for 13*s.* 4*d.* the todd whiles the Netherlander had his trade in Spaine, from whence he was furnished, that the truce which now hath sett it open hath made the same againe the charge. Or els that some of the richest merchants may happely force the clothier to sell his cloth sometime at a lower rate at Blackwell Hall, under pretence that their cloth doth lye unsold beyond the seas, seeing they cannot deny that it is transported.

To neither of which reasons if this decay may be imputed, because it sorteth better with the purpose of some privat men that have a desire to lay many loades upon the new impositions, I will then be bold to deliver thus much of my conceipt upon this occasion: that the feedinge of sheepe upon those groundes which, being formerly used in tillage, was wont to beare foode for men, may have made so great a glutt of that commoditie as doth abate the price; which being so, the damage which they sustaine in the price of their wool might better be esteemed as their own imposition upon themselves for their owne greedines, then any effect of His Majesty's new impost. Or els it may be thought in some parte to proceede from the generall contempt of our cloth here at home, seeing every meane person thinks himself disgraced if he be not apparelled in silks.

For the argument that may be used that the payment of the impost is a burthen to the merchant at his returne, because every merchant hath not

readie money to deliver before he have sold his goods, my answere is and ever hath byn since they were laied, (both in publique and privat,) that as soone as His Majestie should receave any manner of supplie from his people it should be one of the first workes to ease the merchant in that kinde. And so much for answere of those things that have byn spoken of the effects of theis new imposicions, where I will leave this matter after I have laid before you some former presidents by which this course was warranted, with this only touch by the way, that, howsoever theis reasons of mine may drawe the mindes of men from giving so much creadit (as they doe) to the complaintes against the new impositions, there remayneth yet one subject of complaynt most worthie of the wisdome of this House, and that is against those persons who by retaile presume for their owne gaines to raise the price upon us all in a triple proporcion to that which is paid to the King.

As for the presidents: is it not appearant that Queene Marie (a ladie that came in upon change of religion, and a question of title; a Princesse that had lost the harte of her subjects by the match with the forrainer,) made so litle difficultie to impose upon cloth (the principal native commoditie of the Realme), as she ventured upon it in proporcion five-fold at a choppe, that is to say, from 14*d.* to a noble.

Did I not also see another president in the same Queene of an impost upon Gascoigne wynes in a great proporcion, and a quiet possession and long continuance of this too[a] in the Crowne, with many others of like nature that were added in the time of the late Queene Elizabeth of precious memorie, as currants, sweete wynes, and some others? Yes, surely! and therefore whosoever will make a right computacion of all those shall finde that those former impositions are far superior in revenewe to those that make up so many hundreds.

So as when I have examyned all the parts of this complaint (either as it may have reference to the Kinge or to his Ministers,) I thanck God I finde no cause (either as a Councellor in point of State, or as a Patriott that hath bothe lawe and practise for my guide,) why I should thinck the imposing of a ladies hand in that time should be more just or forcible then of a masculine King in this kinde; or why a Princesse, sollitarie and without children, should not deserve an amputacion of revenewe more then a King that hath soe royall a progenie, except those courses by which violent necessities have byn releived in all States besides this, and in this by soe many examples, shalbe made such a miracle as to be roong out with soe lowde a peale.

Having now, most gracious Soveraigne, according to my first method declared the course, the order, and the consequence of your proceedings in

[a] MS. "two."

the new imposicions, I hope your Majestie will dispence with the length of my Narracion, seeing I have left nothing (as I presume) upon your Majestie, but the markes of justice and providence; justice, because a legall judgement went before your direction, and my execucion of the same; providence, because you proceeded with so many cautions.

So as now I will winde up this discourse with a few words only that concern this great assembly and my owne future.

First, I observe in the complaint of the Lower House that they had no meaning, by examyning the right, to deprive your Majestie of those meanes which you can so ill spare, because they have not so blaunched your authoritie as to procede by a bill *Inconsulto rege.*

Secondlie, I will hope that all those gentlemen (whose sufficience and understanding, joyned with their birth and education, makes them as well capable of State learning as of other knowledge,) are so far from misliking the rules I have followed (all circumstances considered), as, whensoever your Majestie's favour or their owne merit shall make use of any of them in any of those heavie chardges and cares which we your Officers and Ministers by your favour do sustaine, they would not only *mecum sentire* but *mecum agere.*

Lastely, I presume they will thinck it lack of charitie hereafter in any man that shall compare any parte of my counsaile in this action with Empson and Dudley's proceedings, or think it an error, seeing this imposicion (warranted by the sentence of the lawe, and so many presidents in the time of precedent princes,) was preferred before many other rigorous intencions, and in a time of extreame necessities; which necessities, though they began not with me, yet would to God I might quickly end, if they and I might end togeather.

Till which time I must thus conclude of myself, that my labours are hard, *cui solum id fere relinquebatur, quod antea dissuasi.*

APPENDIX C.

The Bill against Impositions.

[From Lansdowne MS. 169, fol. 71.]

For that by the good indevours of the marchants of this Realme there is much more plenty and abundance of all things nèedefull and convenient within the Realme, and many serviceable shipps and marriners daiely mayn-

tained for the strength of this realme; and for that in former tymes, for the better incouragement of merchants, divers good lawes and statutes have been made to give the marchants, both strangers and denizens, free liberty safely to bringe into this realme theire goodes, wares, and marchandize, paying the customes, subsedies, and other proffits thereof reasonablie due, without any evill toll or charge; and that no custome or ymposition should bee taken but by the common assent of the realme, except the ancient aides and taxes, as by the said statutes appeareth; which notwithstanding of late yeares newe ympositions, taxes, and charges are layed upon marchandize farr beyonde that which was reasonably due and accustomed, without the comon assent of the realme, to the discouragement of many of the chief marchants and to the hurt of the realme; for remedie wherof may it therfor please Your Majestie, at the humble request not only of the said marchantes, but of all your lovinge subjects who generally tast of the frutes of theire labours, that it may be enacted, and by Your Majestie, the Lords Spirituall and Temporall, and Comons in this present Parliament assembled, and by the authoritie of the same, bee it ordeined and enacted that from henceforth for ever all marchants, as well strangers as denizens and naturall borne subjects, may have such free passage and libertie with theire goodes, wares, and marchandize, to come into this realme, as at any tyme heretofore they have had, paying only the customs and subsedies reasonably due and accustomed to be paid before the twentieth daie of October last past; and that no tax, imposition, or charge be at any tyme hereafter taxed uppon any goodes, wares, and marchandizes of any marchant or marchants brought out or to be brought into this realme, but such as by common assent in Parliament hath been, or from tyme to tyme hereafter by common assent in Parliament shall be, allowed of and ordeyned, upon payne that every customer and other person or persons who shall doe or exact any thinge contrary to the true intent of this Statute shall forfeite for such offence by hym or them committed his office, and be disabled for ever after to execute any office.

APPENDIX D.

The following imaginary conversation is taken from the Lansdowne MS. 151, fol. 128a. There is a rough copy of the same in the same volume, fol. 32a. It occurs amongst the papers of Sir Julius

Cæsar, and it is therefore not improbable that he is himself represented by C.

17th August, 1610. *Quæritur*, whether that this contract betweene the King and the two Howses of Parliament be profitable for the King or no?

A. It appeareth that the King shall gaine thereby a yerelie addition to his other revenew . . . . . 200,000 li.

C. True, did it not alsoe appeare that this bargaine taketh yerelie from the King, which before he held uncontrollably by his just prerogative, the wards and tenures with their incidents, alienacions, præfynes, and postfynes, respit of homage &c. worthe yerelie to the King . . . . 44,000 li.

The purveyances of the King's house and stable by commission, composicion, and cartaking . . . . . 50,000 li.

Asserts, defective tytles, informacions upon penall statuts, and suche other lawfull advantages and prerogatives quitted and released in the several retributions yelded unto on His Majesty's behalf . . . . 21,000 li.

All which amount unto . . . . . 115,000 li.

Which taken out of the said . . . . . 200,000 li.

There will remayne to the King, towards the increase of his yerelie revenew, but . . . . . 85,000 li.

But with the losse of such power and commaund over his subjects in so highe pointes of prerogative, as never yet could bee obteyned from anie of his progenitors Kings or Queenes of this realme.

Nowe the question wilbee, whether the King maie not, without wronging the subjects, raise that 85,000 li. by improvement of those things so parted with by this bargaine. And questionlesse it seemeth that he maie. For noe man can doubt that the wardes and alienacions will yeeld without wronge to the subjects more then heretofore to the King's yerelie purse, by . 40,000 li.

Likewise penall statuts executed lawfullie and mercifully will yeeld more then heretofore yerelie, by . . . . 12,000 li.

By the lawe, not onelie the King, but the King's children, have the benefit of purveyance, which might verie welbee inlarged to the vallew of 20,000 li.

Neither cann it be doubted, but that asserts, defective tytles, purprestures, outlawries, forfeitures of fellons and traitors, and such advantages, as are clerelie acquited by His Majestie, will above that which heretofore they have yeelded, rise to a yerelie increase of . . . 13,000 li.

All which maketh upp the some of . . . 85,000 li.

A. Well! admitt all to be true, as you saie, yet certeynly it cannot be denyed but in the said increase, by improvements in those kinds, the subjects

whoe complaine alreadie for the present profitt made of those natures, will double their complaints hereafter; which, though causeless in the King's right, yet the same maie growe so heavie to the subjects by the rigor of the execucioners thereof, that the people maie be stirred, if not to rebellion, yet to such a coldnes of future contributions, that maie justlie occasion a despaire in the King never to receive relieff hereafter from his subjects by fifteenths, subsidies, or the like; which if it come to passe, consider your present estate, and see in what case you stand without some relieff from the Commons at this tyme; and howe you can, without their helpe, better the same hereafter.

At the beginning of this last session of Parliament, your want yerelie in the ordinarie was . . . . . 50,000 li.
For the extraordinary . . . . . 100,000 li.
To which you must add theis somes following, taken from the ordinarie receipts since that tyme, viz.

To the Prince	20,000 li.
Some of the new impositions . . .	20,000 li.
Seacoles of Sunderland and Blithe . .	300 li.
Part of the preemption of tynn . . .	2,000 li.
Logwood	1,700 li.
Alehouses	4,000 li.
All which amount unto . . .	48,000 li.

Which added to the former two somes make the yerelie want at this present . . . . . 198,000 li.
Nowe for your debts, did you not owe at the beginning of the said session . . . . . 300,000 li.
And did you not need for necessary provisions for the King and State . . . . . 150,000 li.
And for a stock to remaine readie for anie future perill . 150,000 li.
Where uppon there was necessarily demaunded supplie of . 600,000 li.
And is not your debt since increased by addition of 110,000 li. new debt to . . . . . 410,000 li.
And have you yet obteyned more to the discharge thereof then one subsidie and one fifteenth to the vallew of . . . . . 110,000 li.
And doe you suppose that without proceeding in the said contract, or giving them better contentment in their proposed greivances, you shalbee able to drawe from them one penie more for your supplies. No, surelie. And then behold your monie state. You want yerelie . . 198,000 li.

You want in present monie, over and above 110,000 li. to be discharged by the said subsidy and fifteenth, ... 600,000 li.

Nowe, if you, or anie man lyving, can tell me howe to supplie the said 2 wantes without the help of the Parliament, or abating of expenses, or improving the King's landes and some forests, parkes, and chases, *eris mihi magnus Apollo.*

Nowe for the abating of the expenses admitt that you maie abate yerelie :—

In the King's house	10,000 li.
In Ireland	20,000 li.
In the wardrobe	3,000 li.
In the navie	8,000 li.
In ambassadors	4,000 li.
In workes	10,000 li.
In the jewell house	4,000 li.
In parkes, pales, railes, and lodges . .	2,000 li.
In rewards for officers and messengers . .	2,000 li.
In the Tower and other prisons . . .	1,000 li.
All that amounteth but to . . .	64,000 li.

Which I feare will never bee done, but if it bee yet there wilbee still wanting yerelie . . . . . 134,000 li.

To which, if you will add that the King wilbee content to spare in his extraordinary expences yerelie . . . . 50,000 li.

Yet there wilbee wanting yerelie . . . . 84,000 li.

So that abating of expences, though that might bee, will not serve the turne desired, and prove to him perhapps more distastefull then the parting with the said prerogatives to his people.

Nowe then for the improveing of the King's landes, and some remote forests parkes, and chaces, the latter I feare his Majesty will dislike, and the former by no means will yeeld him above . . . . 84,000 li.

So that, if neither improving of the King's lands, nor abating of expences, will either of them singlie by itselfe supplie the yerelie want, then bothe joyntlie must doe it, or else the King must resolve to depend uppon the help and assistance of his people in Parliament. And bothe those joyntlie togeether without helpe of Parliament will never be able to furnish your yerely want, and withall discharge the said huge debt, and provide those necessarie somes which, otherwise [a] provided, will drawe with them uppon the King a daiely and

[a] *i. e.* by loans.

yerelie interest, which will miserably increase the yerelie wantes and calamities of this estate.

C. Then, after your longe discourse, thus much have I gotten of you, that the King maie by theis two meanes joyntlie releive his estate, for yerelie wants, without his Parliament, but not to paie his present debts, or to make provision of monie for the present necessitie and use of the King and state. But howe shall the Parliament doe that, unlesse they will supplie the residue of the yerely want of 200,000 li. and supplie the some of 600,000 li. first demanded of them?

A. It maie well bee that His Majestie, by yeelding them content in some of their greavancs wherein they are not yet satisfyed with the late answers, may winn from them 3 subsidies and 6 fifteenths to be paied in three yeares to begin after the last payment of the subsidy already graunted, which will amount unto . . . . . 450,000 li.

But certeynlie they will never be persuaded to anie yerelie support, further then they have offered already.

C. If they will doe as you saie yet the said 450,000 li. wilbee noe more in that tyme then if they should give presently 350,000 li. by reason of the continuall interest still growing uppon us for want of readie monie.

So shall wee still want of that wee need . . . 250,000 li.

Which, if not prevented, will bring us in verie short tyme to the former miserie.

Nowe then it appeareth, that albeit you give that 200,000 li. by waie of bargaine, and give 4 subsidies and 7 fifteenths,[a] yet we shall still want for support of yerely charges . . . . . 115,000 li.

And for payment of our debts and necessary provision in monie 250,000 li.

And alsoe by this contract, the King shalbee stripped and devested of those imperiall prerogatives, and flowers of his crowne, that never King of England yet did or would part with uppon anie condicion.

A. I must confesse that you have said truely; but if the greatest Kings in the world will in their expenses exceed the bounds of their revenew, *non admirentur si paupertate graventur*. And consequentlie, they then will fynde it true that povertie in a King is the most disadvantagious and distastfull sicknes that can assaile him, and comonly proveth a miserable disastre to King and people; and, therefore, you must hereafter *non aliunde quod a te potes petere*, and learne by good husbandrie in improving your owne certeyn revenew, and abating your ordinarie expenses and avoyding of extraordinarie, to repaire the ruynes of this decaied estate.

C. I find nowe th'end of worldlie frendship, either not to reliev, or to doe it sparingly, or in lieu thereof to give good counsell. I will therfore accept of

[a] Including the grant of the last session.

the last, and endevor to make tryall howe the said twofold necessity maie be supplied without the said contract, or further helpe of Parliament at this tyme.

It appeareth by the premisses that the King's yerelie want is . 198,000 li.

For support whereof the improvements of the wards, alienacions, and the other kinds for which wee should have contracted will amount to . .	85,000 li.
The improvements of the King's landes, not medling with his forests, parks, and chaces . .	84,000 li.
The abatement of expenses in the King's house .	10,000 li.
In the works	5,000 li.
In the allowance of Ireland . .	5,000 li.
In the jewel house	4,000 li.
In repairing parks, pales, and lodges . .	2,000 li.
In rewards to officers and messengers . .	2,000 li.
In prisons	1,000 li.
All which amounteth to . . .	198,000 li.

Nowe let us trie what means maie bee taken for the supplying of so much as maie satisfy the great debt of . . 600,000 li.

There was left 4,044 li. of refuse land unbought, and turned back by the late contractors, which, to be sold after the rate of twenty-five yeres' purchase, will amount unto	101,100 li.
There was left in fee farmes reserved upon parsonages impropriat 7,000 li. a yere, which, to be sold at 15 yeres purchase, will yeeld [a] . . .	105,000 li.
There was left in fee farmes reserved upon mills 1,500 li. a yere, which, to be sold after 15 yeres purchase, cometh to [b]	22,500 li.
There is returned back by the contractors for mills 1,026 li. yerelie, which, to be sold in fee simple at 25 yeres purchase, will amount unto [c] . .	25,650 li.
There was left in fee farmes by the first contractors	

[a] Marginal note, "736 li. thereof in the great entaile, which cannot be sold. Alsoe 450 li. of the duchie of Lancaster."

[b] "Of the duchie of Lancaster 376 li. 21 li. passed already in Sr. Christofer Hatton's booke. 29 li. in the Queen's joynture."

[c] "151 li. of the duchie of Lancaster. Total, 26,445 li."

for lands, Garawaie, &c., 700 li. a yere reserved to the King, which, to be sold after the rate of 15 yeres purchase, amounteth to . . .	10,500 li.
The interest of landes inned and recovered from the sea since 32 H. 8, in fynes, besides a reservacion of a fee farme rent to the Crowne . . .	40,000 li.
The interest of landes escheated to the King, either by basterdie of the pretended owners, or by dying without heires, or being purchased by aliens not denized	10,000 li.
The interest of lands intayled uppon the Crowne either generally or specially whereof the intaile is spent	30,000 li.
The interest of landes where 2 mannors have bene carried awaie from the King for one, where rectories appropriat have bene carried awaie for advousions, where whole chauntries and chappells and the lands of the same have bene carried awaie under colour of an advousion	10,000 li.
There is to be returned from the contractors for parsonags at least 2,000 li. a yere, which to be sold at 22 yeres purchase in fee simple is worthe .	44,000 li.
The King will forbeare the desired stock (which would have tended to the safetie of the whole realme, if conveniently it might have been had), viz. .	150,000 li.
And, because the Commons are so sure of their safetey, as that they refuse to inlarge themselves to the provision of things necessarie for the mayntenance of the name of England, the office of ordinance, and the like, the King must be pleased to forbeare some part of that provision, which will have towards the ballancing of the said great some	51,300 li.
Tot.	600,000 li.

A. Now I perceive the old proverbe to be true that hast makes wast, for, in making upp your yerelie wants of . . . 198,000 li.

You reckon the improvement of the Kings lands at 84,000 li. wherebie you take yerelie from the King in the fynes of coppieholders 2,000 li., in the fynes

of leases 2,000 li., and in fynes, herriots, and perquisites of courts 1,000 li.; all . . . . . 5,000 li.

And, in making upp your some of 600,000 li., you take awaie in fee simple and fee farme rents, out of the King's present standing revenew, yerelie . . . . . 17,000 li.

Bothe which somes amount to . . . . . 22,000 li.

C. I see you take me at everie turne; but to give you a full answer, the King willbee pleased to abate yerelie in the charges of his navie . 2,000 li.

And of his extraordinary expenses . . . 20,000 li.

Bothe which somes amount to yerely . . . 22,000 li.

And now I trust you are satisfyed that the King is not in such extreme need of the Commons help to reliev his present wants, but that he can by his owne means, and without taking anie desperat course, relieve himself.

A. I see it, and am glad of it, and I thank God for it; but let me tell you as a frend that I misslike three things in your yerelie support: the first is the continuance of some impositions as parcell of your ordinarie revenew; the other two are by addition to your revenew, first, by increase uppon things alreadie greavious and unpleasing (thoughe just) unto the people, and the other so to improve the King's landes as to take from him all other benefit, proffitt, and commodities of his lands, saving the bare rents thereof, which maie perhaps be questioned in the next following age, and light heavily uppon them whoe shall advise it.

C. I thanke you for your advice; but even *Œdipus non videt omnia*, for those imposicions which were offensyve are taken awaie, and those onlie left which being rightly examined wilbee found verie tollerable, and uppon marchandises that, to the good rather then hurt of the commonwealth, maie conveniently beare the same.

As for the second, viz. the increase uppon thinges which you hold greivous unto you, mine answer is you have taken offence when you should not. None hathe bene given you, for the King in using his owne right wrongeth no man; and this increase is not uppon you, but diverting the current of private men's gaine to his right course into the Exchequer, and bringing that benefit to the King's purse, which heretofore hathe served to raise the fortunes of others, wherebie the generalitie of the Commons shall receive an exceeding great contentment to see their monies, which heretofore were the objects of private men's desires, to be employed to the King's proper use and benefit; and if the people have heretofore and maie be hereafter abused by the under officers of those places where this increase shalbee, the lawes made in that behalfe shalbee severely executed uppon such offendors; and, if the lawes already cannot suffi-

ciently doe it, they maie be enlarged or new made for it. But let the people be so just unto their soveraigne, as not to take offence against him for any miscarriage of clerks and inferior ministers, of whome the cheif officers will take care that either they shall not offend, or shall receive condigne punishment for the same.

Nowe for the third point, which concerneth the improvement of some part of the King's land revenews. I am not ignorant that they bee the surest and best livelyhood of the Crowne, and that the realme is then most happie when they be so great as that by them the King's state and honor maie be maynteyned, and his expences, both ordinarie and extraordinarie, sufficientlie defraied; but this maie bee wished and hoped for. Neither shall wee fynde that ever king of England lyved merely uppon his land revenews, but partlie uppon them, partlie uppon his customes, and impositions or taxes, and partly uppon subsidies, fifteenths, tenths, benevolences, and the like given him by his people.

For in the beginning of H. 6 reigne the lande of England being either of the layetie or of the clergie, the King's porcion of land was well nere the fift parte of all the laie land of England and Wales, as is testifyed by Sir John Fortescue, Lo. Cheiff Justice of England in H. 6 his tyme, in his booke of remonstrances to the King, cap. 11; and yet in that tyme the said king received the customes of all marchandises bothe of Englishe and strangers, inward and outward, subsidies, tenths, and fifteenths, and other great contribucions, as appeareth by the accompts of his tyme. And that land continewed not altogether in the Crowne, for much thereof was given awaie; and in 12 of his raigne the same, besids the revenew of the Duchie of Lancaster, did not amount to above 8,400 li. in rents, which cannot amount to more of our monie at this tyme then 25,000 li., as appeareth by an accompt remayning uppon record in the Tower of London of that yere.

Which land revenew hathe bene since that tyme either inlarged or diminished according to the occasions or necessities of the tymes ensewing. But, with that revenew which is called the ancient revenew of the Crowne, and whereof onelie the Pipe Office taketh knowledge, wee purpose not to meddle in this improvement, but onelie with the annexed revenew charged before the 7 auditors, which grew partlie from the dissolution of abbies, monasteries, chauntries, and religious houses, and partlie by forfeitures of fellons and traitors, escheats, purchase, guifts, entailes extinct, or the like; and, of theis landes, which receive uppon new accidents yerelie increases, it hathe bene counted the safest waie, and voydest of exceptions, to make improvements uppon just occasions, or to make sale in fee simple or in fee farme of part thereof, to supplie the necessity of the King or of his state. And surely hard

it were to censure this gaine with the stile of ill husbandrie, where the same thing is made more worthe then before by 79,000 li. all chargs and losses therebie happening first deducted, as it shalbee in this case.

A. I must confesse that you have clered theis objections touching the support to my good content; but, in the matter of supplie, you enter so farr into the search of men's tytles, who have longe enjoyed quietly those landes whereunto you pretend His Majesty's interest, as likewise of drowned lands recovered from the sea, that I feare exceedingly lest it maie breed some insurrection or rebellion amonge the people, for the avoyding whereof I should hould it farr more expedient to take a little of the people by their voluntarie contribucion, then a great deale by this waie of impulsive constraint.

C. Sir, touching the drowned lands, it is the people's humble peticion to the King, to be stated in those landes in fee farme to them and theirs, that, under the shaddowe of the King's wings, they maie bee protected from the violence of cruell landlords, and from the oppression of rich and uncharitable neighbors. For which they offer more then is afore specifyed.

And, for unjust possessors of the King's lands, whoe have witheld them, not by colour of anie lawe or equity, but fraudulentlie and deceitfully from His Majestie and his predecessors Kings or Queenes of theise his dominions, without anie fitt consideracion rendered to the Crowne, it were of great pusillanimity in the King, and contrary to his oathe, (once knowing thereof) not to endeavor by all lawfull and just means to recover the same and restore it to the Crowne, to which it apperteyneth. And, for the mayntenance of suche royall rights in the Crowne, being thereof possessed, or for recoverie of the same to the Crowne, being thereof violentlie or fraudulentlie dispossessed, all officers are sworne even from the highest to the lowest of this kingdome. And, therefore, in that manner of provision for supplie, I can fynde no cause of feare of anie such tumultuous inconvenience as you suppose; and am rather assured that nothing can be better welcome to the common people then the former, and that noe man of worthe (for them onelie the latter concerneth,) will adventure his lyfe, losse of his goods and lands, attaynder of his bloud, and disinherrison of his posterity, by anie treasonable conspiracie or combinacion against his soveraigne, seeking onelie by course of justice and by the common lawe of this lande to recover those his rights, which, contrarie to lawe and dutie, are wrongfully deteyned from him.

A. You have answered nowe all my doubts touching the King's means of present supplie and yerely support, without the further helpe of his Parliament. But, since you have streched out the King's means to the highest straine, I praie you tell me what first will you make if anie suddaine invasion should happen in anie of the King's dominions when the Exchequer is emptie of coyne

and noe means left of present levie or provision of anie great sum to serve that suddaine turne.

C. It will not be denyed, but, that as the King oweth the people defence and justice, so the people are to furnishe al the King's necessities, and to serve him with their bodies and goods in tyme of warr; and that is the lawe fundamentall of this kingdome, and is most just and agreeable to the lawe of God and nature: as Sir John Fortescue in his afore mencioned booke at large delivered, for which wee need none other authoritie then experience it selfe, for wee see people willinger to part with muche in tyme of warr then with litle in tyme of peace.

A. Having thus farr examined what yerelie benefitt will come to the King's purse by the said contract towards relieving of his wants, and what the King must part with for it, and likewise howe the King without the Parliament maie supplie his said wants by his owne meanes; let us now by strength of arguments examine the mayne question whether, as the case now standeth, grounded uppon the truthe of the premises, the said contract wilbe profitable for the King or noe; and, for my part, I hould it verie proffitable for the King, for theis reasons ensewing:—

1. First, when the price doubleth the vallew of the things bought, then the seller maketh a profitable bargaine; but here the Prince doubleth the vallew of the things bought, *ergo* the contract is profitable to the seller. The major proposition is evident and notorious; the minor appeareth by the premises; the conclusion then must needs be true.

2. Secondlie, that contract is proffitable for the King which maketh that revenew certeine with the consent and love of the people which before was uncerteyne, and enjoyed with their murmurr and discontent; but this contract worketh that effect in the matter of purveyancs and carriages. *Ergo*, it is proffitable.

3. Thirdly, whatsoever act diverteth or preventeth things unsafe for the King and State, that act is profitable for the King; but this contract preventeth the stretching of the King's prerogatives, which would prove unsafe bothe for himself and his State: *Ergo*, this contract is profitable for the King. The major is a rule of state uncontrollable The minor appeareth by the premises. *Ergo*, the contract is profitable for the King.

C. Sir, your arguments are in number 3, wherewith you indeavor to maynteine that this contract is profittable for the King. To which I purpose to give three severall answers, suche I hope as shall yeeld you satisfaction. And then will I endeavor to make it clerelie appeare unto you that this contract, *rebus sic stantibus ut nunc sunt*, is verie unprofitable to His Majestie.

1. Touching the minor proposition of your first argument, it is true, if wee

consider onely the present monie which the said things to bee bought doe yerelie yeelde to His Majesty's cofers; but, if the true vallew of them, which yerelie is answered and spent for and about them by the subjects, and which hereafter they shall have, bee considered, the same amounteth to 100,000 li. a yere more then the price nowe offered. Wherein His Majestie is so muche interested, because his servants thereby benefitted and relieved doe acknowledg themselves therewith contented and satisfyed, whome otherwise His Majestie were bound to relieve out of his owne purse, which being notoriously knowne to bee true, it then appeareth that the subjects shall gaine and the King shall loose exceedinglie muche by this contract, and therefore not profitable for His Majestie.

2. Touching the minor proposition of the second argument, it is a thing void of all questioning that purveyancs and carriages are the ancyent prerogatives of this Crowne, and never denyed in anie tymes to bee the King's due, and therfore held as a certein revenew or prerogative to the Crowne; which, being moderately used, was never displeasing to the people; but the immoderate use, or rather abuses and misdemeanors of under ministers, as of purveyors and cartakers, have bene by manie lawes in severall tymes severely censured, and so sufficiently provided for as that, if they be well executed, the said offences will easily be reformed. And surelie if there bee anie remissnes of justice in that behalfe, the principal fault resteth in the justices of peace in everie shyre of England and Wales, whoe, being members or parties of the Commons House of Parliament, doe ill to laie that fault uppon the King or State, the redresse whearof peculiarlie belongeth to themselves. So that, the misdemeanors of purveyors being redressed, purveyancs are ancyent and lawfull, and willinglie borne, and therefore herein the contract (for the reasons of certeintie and people's willingnes) maie prove rather unproffitable for the King; for that therebie his future occasions of provision of victualls, thoughe they growe muche dearer, shalbee lymited to the present prises, which are lesse, and so maie prove extreamly unprofitable for the King. As, for example's sake, a fatt oxe in 37 Eliz. was sould for 6 li. 13 s. 4 d., in anno 3 of the King for 8 li., in anno 8 for 8 li. 15 s., and so paied for by the King's coferer in the market. The like increase in muttons, veales, starks, porkes, boores, bacon, lamb, &c., of the which, if the price shall increase in like sorte hereafter, the King shalbee a great looser by this contract, which cannot presently proportion a quantityve certentie to future uncertaine quantities. Likewise concerning carriages, as the same are exceedinglie multiplyed by the addition of a most gracious Queene and a most noble and hopefull Prince, and others of the royall issew, so as they and their retinewe growe greater the carriags must increase, and thereby this contract will prove verie unprofitable and disadvantageable to

His Majestie. All which conclusions are so apparant and visible as they need not to bee inlarged with further proofe.

3. Nowe to the minor proposition of the last argument. As the former were, so is this full of subtletie. I must confesse that it is not safe for the King to stretche his prerogatives uppon the people more then hathe bene formerly accustomed, neither hathe our King used that power overmuche, but hathe rather abated it since the last session of Parliament to the vallew of 30,000 li. a yere, or thereabouts (as maie appeare by the premisses); but it is most safe for the King to stretche his prerogative to his owne advantage without the prejudice of his people; for nothing can be more acceptable to them then to heare that their monies are employed, not to serve the necessities of private men, but to supplie the wants of the King's owne coffers; whose liberality honest favorites will esteeme at the highest pitche when he giveth with that moderacion that he maie give againe, and so giveth at all tymes as at noe tyme he departeth himselfe of his owne patrimonie. And, therfore, where it is said that this contract will procure safetie to the King by preventing the stretching of his prerogatives, it appeareth that this shall procure his safetey and love with the people much more when they shall see that without increase of their contribucion he shall stretche the benefitt of that he hathe alreadie by a parsimonious and not illiberall hande, to the inriching of his owne cofers. And nowe you perceive that the reason of your arguments can noe waie prove this contract to be profitable to the King.

Your arguments thus answered to the full, nowe it behoveth me to make it appeare unto you that this contract is verie unprofitable, dishonorable, and disadvantagious to the King.

1. First, there is nothing more disagreeable to the honor of a King, then to sell the ancyent prerogatives of his Crowne for anie monie; but in this contract he doeth so; *ergo*, dishonorable.

2. Secondlie, in parting with those royall prerogatives, which none of his predecessors, Kings of England, would ever doe in their greatest extremities, [he] sheweth a want above all wants; which want of treasure in a great monarchie is the motive of subjects' pryde and forreine practise, two things most pernicious to the King's estate. But this contract taketh awaie those highe prerogatives which former Kings would never parte with. *Ergo*, this contract disadvantagious to the King.

3. Thirdlie, that contract is unprofitable for the State, and pernitious to the King, which freeth the people from the King's greatest lawfull powers. But this contract doeth soe. *Ergo*, it is unprofitable.

4. Fowerthly, where a King by bargaine shall receive no more then he hopeth either *in damno emergente*, or *lucro cessante*, and yet shall withall lose

much of his power and comaundment over his subjects, there the contract is unprofitable for the King. But in this contract he doeth so. *Ergo*, it is unproffitable unto him.

5. Fiftelie, it wilbee the most unprofitable bargaine that ever King made, to part with most of the greatest prerogatives of gaine and honor which he hathe, and not to relieve that want which was the onelie motive of that resolucion. But by this contract he shall parte with those honorable means of gaine, and yet still remayne in want of 600,000 li. for the discharge of his present debts and provision of necessaries for the preservation and defence of himself and kingdomes, without which neither he nor wee can long enjoy safetey. *Ergo*, this contract is unprofitable to His Majestie. The major propositions are maximes infallible. The *assumpta* or minor propositions are proved directly by the premisses. And therefore the conclusions are indubitable.

A. If, then, this contract be so dishonorable, disadvantagious, and unprofitable for the King, whie hathe the King bene persuaded to yeeld unto it?

C. The necessitie of supplying the King's extreame wants for the present and supporting his yerelie expenses for the future tyme hathe occasioned the same, which necessitie *non habet legem*, nor *paret legi, sed legem parit, et quod alias est vel prohibitum, vel ratione dissentaneum, ex necessitate est tolerandum.* Suche necessitie therfore must bee forseene and prevented, for, when it is come, it cannot be resisted. And since the cause of the necessitie not altogeether grewe from personall liberalitie, which hathe his motive from humane affections, but from politicall liberalitie, which conteyned in it the honor and greatnes of the State, which could not be neglected, and for that the subjects of England did never yet want bothe myndes and meanes to supplie their princes for anie publick uses with necessarie helpes, neither can it be doubted but that, if by reason of some personall liberalitie past the King nowe wanteth, the state likewise wanteth, and therefore the strengthening of the King is the preservation and standing of the state; and that at this present the eyes of all forreyne states are uppon this affaire, and in expectation what the successe thereof wilbee, so that, if the Parliament men depart without relieving His Majestie in that proportion that maie make him able to mayntein his estate, forrein states cannot but thinke that his subjects are unwilling to helpe him, thinking him unworthie thereof, or at least that his estate is so desperat that it cannot be repaired, which will make him contemptible unto them. And this is an undoubted truthe that, if a King fall to be contemned of his neyghbors, the same cannot but bring an oppression and war by them uppon him, and then it wilbee to late to support the King, when the cure is almost desperate. And for that the King hathe declared that the vastnes of his expence is

past, and that he myndes not to lyve in anie wastfull sorte hereafter (the significacion whereof from his owne mouthe is a grace of extraordinarie favor to the subjects, and ought to move the bowells of their best affections, bothe to believe it, and to haste to supplie it,) let his subjects resolve to helpe his wants unto his full, if they will have the benefit of so advantageous a contract for themselves, and disadvantageous to the King; that the greatnes of his necessitie being fullie supplied maie justlie excuse the disadvantages yeelded to on his behalfe. Otherwise there wilbee likelyhood of theis following extreame mischieffs by this contract.

1. The undoing of those whoe lose therebie their offices, for which most of them have paied derelie, which is open injustice.

2. A readie passage to a democracy, which is the deadliest enimie to a monarchy.

3. A necessity for the King to breake up household tables hereafter if prices of things increase, as in late yeres they have done, which wilbe verie dishonorable.

4. A want of means to gratifie and reward weldoing servants, without which the King's honor cannot stand.

5. A generall contempt of the King, and consequently of his counsellors and great officers, when they fynde themselves not subject to the King's great lawfull powers, unlesse it be in committing of great crymes.

6. An emboldning of fellons and traitors and outlawes (the pests of the commonwealth) when they know that by privat debts they maie closely secure to their posteritie the greatest part of their landes and goods, if not all; from whose forfeitures have sprung, for manie yeres last past, the greatest part of the Crownes revenews.

7. Sr. John Fortescue, Kt., Lord Cheiff Justice of England, in the 10 chapter of his Booke of Remonstrances to H. 6, King of England, sheweth that the marriages of wards and the King's wydoes were the surest means to temper the pryde of his greatest subjects, and to increase the treasure of his owne coffers, which marriages are nowe carried from the King by this contract, devesting him of those honorable advantages.

8. The King by this contract parteth with the fairest flowers for proffit and commaund in all his garland, and yet his necessitie, which moved his consent to this contract, shall not be sufficiently relieved; and so his miserable wantes will still continew, so as he may justlie conclude with that ancient proverb, As good never a whitt as never the better, which is the extreamest mischeiff of them all.

9. If an overflowing multitude of anie professors in anie branche of the Commonwealth bee perilous to the state, then most in schollers whoe professe

learning, the soule of a state, and especiallie in those schollers whoe are apprentises at the common lawe, and consequentlie of the best part of the soule of this estate, whoe being in conceit loftie, in speech eloquent, and, in the opinion of the English world, the onelie learned men, and so commonlie stiled, must not bee shortened in their provision of mayntenance, lest the publicke bodie be troubled with their private; that is the commonwealth with their private want. And surelie it is notorious that the greatest and most knottie questions of the lawe depend on the tenures, and their incidents, and on the other prerogatives past by this contract, wherein the fynest witts were most employed, and yet the meanest students wanted not their competent means of gaine. And questionlesse this contract will carrie awaie a third part of the lawyers' gaines, whose want and witt joyned with a loytering lyfe, if their employment be so far abated, will prove disastrous to this estate.

10. What innovation will worke in a state even in omission of the least ceremonies, that saying of Hoperus, one of the greatest state counsellors of latter tyme, doeth shew in these words: "Dissolutis minimis in Republicâ, sæpe etiam et maxima dilabuntur," muche more in omitting great ceremonies, yet more in bringing in new ceremonies; much more in innovacion of matters substanciall, but most of all in the innovation of the fundamentall lawes, not of a newlie erected, but of an ancyentlie continued kingdome. But in the judgment of the greatest lawyers of this kingdome, this contract will make a strange and deepe alteracion in the fundamentall lawes of this estate, which is a greater mischeif, and trencheth further then maie be forsene in tyme, or endured when it cometh.

11. I am persuaded that after this contract passed, the King maie undoubtlie resolve to receive noe more subsidies or fifteenths from his subjects in tyme of peace. For that is parcell of their groundworke, whereuppon they are proposed to wynn their contries' consent to this contract; for neither shall the King need it, as they pretend, having that yerelie portion from them, neither will their contries be able to furnishe anie more then that 200,000 li. a yere. Wherein they consider not that they take from the King of that he had 115,000 li. a yere, and they add to this former but 85,000 li. a yere in truthe; and withall that they take therebie noe part of the huge debt and provisions of 600,000 li., the interest whereof will eat upp 60,000 li. a yere of that 85,000 li. So that this contract will not onlie not releive his present necessitie, but alsoe take from him that hope which, in the late Queenes tyme, and hitherto in his, never failed; which hathe bene to relieve the King with subsidies and fifteenths uppon all occasions moved in Parliament.

12. Last of all, this contract doeth not onelie stripp the King from his greatest honorable and profitable privileges and prerogatives, and taketh awaie his future hopes of further relieffs from his people (unlesse it bee in tymes of warr,

when their owne states shalbee in present and imminent danger), but alsoe (which of all other miseries is the greatest) it endangereth his conscience in leaving those orphanes and wydowes to common justice without priviledge, whome before bothe himself and the former Kings of this realme have protected under the wings of their royall power from the violence of all oppressions, and have (by the benefit of the Court of Wards) conjoyned with themselves in the participation and fruition of manie royall prerogatives and favors.

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ERRATA.

P. 9, line 4 from bottom, for "Nicholas Hyde was member," read, "the Hyde mentioned in the text was probably Lawrence Hyde the member for Marlborough. His brother Nicholas was also a member of this Parliament sitting"

P. 84, heading, del. "and Yelverton."

P. 118, line 25, for "MR. ATTORNEY," read "Mr. Attorney."

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